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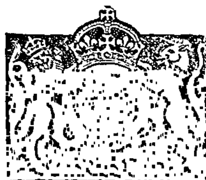
THE UNREPEALED CENTRAL ACTS

WITH

CHRONOLOGICAL TABLE AND INDEX

VOLUME VIII

From 1924 to 1930, both inclusive



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1939

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PREFACE.

The Acts included in this Volume are printed generally as modified up to the 31st December, 1937; but the repeals recently effected by the Repealing Act, 1938 (I of 1938), and the Insurance Act, 1938 (IV of 1938), have also been taken into account in preparing the text as well as the Chronological Table.

K. SUNDARAM, I.C.S.,
Officer on Special Duty, Reforms Office,
Government of India.

NEW DELHI,
1st April, 1938.

LIST OF ABBREVIATIONS USED

A O	for [illegible] Order 1937
B & O	" Bihar and Orissa
Ben	" Bengal
Bom	" Bombay
Brit Enact I S	" British Enactments in force in Indian States
Ch	" Chapter
Cl	" Clause
Coll Stat Ind	" Collection of Statutes relating to India
C P	" Central Provinces
E B & A	" Eastern Bengal and Assam
Gen R & O	" General Statutory Rules and Orders
G G in C	" Governor General in Council
G G of India in C	" Governor General of India in Council
G in C	" Governor in Council
G of I	" Government of India
Govt	" Government
Ins	" Inserted
L G	" Local Government
Mad	" Madras
N W F P	" North West Frontier Province
Pt	" Part
R and O	" Rules and Orders
Reg	" Regulation
Rep	" Repealed
S	" Section
Sch	" Schedule
Subs	" Substituted
U P	" United Provinces

CHRONOLOGICAL TABLE OF UNREPEALED CENTRAL ACTS, 1924-1930.

[1] Governor General's Act. No number was given.

CHRONOLOGICAL TABLE OF UNREPEALED CENTRAL ACTS, 1924-1930—*concld.*

[1] Relates to Burma.
[2] Spent.

THE

UNREPEALED CENTRAL ACTS.

VOLUME VIII.

THE CANTONMENTS ACT, 1924.

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CORRIGENDA

Page 16 In line 16 *for* "[1] [(xxiva)" *read* "[3a][(xxiva)", and *After* footnote 3 *insert* —

[3a] Ins by the Repealing and Amending Act 1935 (12 of 1935) s 2 and Sch I

Page 57 In footnote 2 *for* "His Majesty" *read* "by His Majesty"

Page 63 In line 27 *for* 'keep' *read* "keeper"

Page 68 In line 9 *for* "after and" *read* "and after"

Page 90 In line 17 *for* the second "of" *read* "or"

Page 120 In line 37 *for* the first "or" *read* "of"

Page 267 In line 20 *after* "by" *insert* "a"

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(Chapter I.—Preliminary)

Act No. II of 1924[1].

[16th February, 1924.]

An Act to consolidate and amend the law relating to the administration of cantonments.

Whereas it is expedient to consolidate and amend the law relating to the administration of cantonments, It is hereby enacted as follows —

CHAPTER I

Preliminary

Short title, extent and commencement.

1. (*1*) This Act may be called the Cantonments Act, 1924

(*2*) It extends to the whole of British India, including British Baluchistan

(*3*) The [2][Central Government] may, by notification in the [3][Official Gazette], direct that this Act, or any provisions thereof which [4][it] may specify, shall come into force on such date[5] as [4][it] may appoint in this behalf

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(i) "Assistant Health Officer" means the medical officer appointed by the [6][Officer Commanding in Chief, the Command,] to be the Assistant Health Officer for a cantonment,

(ii) "Board" means a Cantonment Board constituted under this Act

(iii) "brigade area" means one of the brigade areas, whether occupied by a brigade or not, into which India is for military purposes for the time being divided, and includes for all or any of the purposes of this Act any area which the [2][Central Government] may, by notification in the [3][Official Gazette], declare to be a brigade area for such purpose or purposes,

[7][(iv) "building" means a house, outhouse, stable, latrine, shed, hut or other roofed structure whether of masonry, brick, wood, mud, metal or other material, and any part thereof, and includes a well and a wall (other than a boundary wall not exceeding eight feet in height and not abutting on a street) but does not include a tent or other portable and temporary shelter,]

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[1] For Statement of Objects and Reasons see Gazette of India, 1923, Pt V, p 220, and for Report of Select Committee see ibid, p 270

[2] Subs by the A O for 'G G in C

[3] Subs by the A O for "Gazette of India

[4] Subs by the A O for "he

[5] [illegible] I, p 466

[6] [illegible] (Amendment) Act, 1926 (35 of 1926) for "Officer [illegible]

[7] [illegible] Amendment) Act, 1936 (24 of 1936) for the original clause

(*Chapter I.—Preliminary.*)

[1]* * * * * * *

(vi) "casual election" means an election held to fill a casual vacancy;

(vii) "casual vacancy" means a vacancy occurring otherwise than by efflux of time in the office of an elected member of a Board;

(viii) "Command" means one of the Commands into which India is for military purposes for the time being divided, and includes any area which the [2][Central Government] may, by notification in the [3][Official Gazette], declare to be a Command for all or any of the purposes of this Act;

[4]* * * * * * *

(x) "dairy" includes any farm, cattle-shed, milk-store, milk-shop or other place from which milk is supplied or in which milk is kept for purposes of sale or is manufactured for sale into butter, ghee, cheese or curds, and, in relation to a dairyman who does not occupy any premises for the sale of milk, includes any place in which he keeps the vessels used by him for the storage or sale of milk;

(xi) "dairyman" includes the keeper of a cow, buffalo, goat, ass or other animal, the milk of which is offered or is intended to be offered for sale for human consumption, and any purveyor of milk and any occupier of a dairy;

[5][(*xia*) "entitled consumer" means a person in a cantonment who is paid from the Defence Services Estimates and is authorised by general or special order of the [2][Central Government] to receive a supply of water for domestic purposes from the Military Engineer Services or the Public Works Department on such terms and conditions as may be specified in the order;]

(xii) "Executive Engineer" means the Public Works officer of that grade, or the [6][Officer of the Military Engineer Services] of the corresponding grade, having charge of the military works in a cantonment [5][or where more than one such officer has charge of the military works in a cantonment such one of those officers as the Officer Commanding the Station may designate in this behalf], and includes the officer of whatever grade in immediate executive engineering charge of a cantonment;

(xiii) "Executive Officer" means the person appointed under this Act to be the Executive Officer of a cantonment;

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[1] Cl. (*v*) rep. by s. 2 of the Cantonments (Amendment) Act, 1936 (24 of 1936).
[2] Subs. by the A. O. for "G. G. in C."
[3] Subs. by the A. O. for "Gazette of India".
[4] Cl. (*ix*) rep. by s. 2 and Sch. I of the Repealing and Amending Act, 1935 (12 of 1935).
[5] Ins. by s. 2 of Act 24 of 1936.
[6] Subs. by s. 2 of the Cantonments (Amendment) Act, 1925 (7 of 1925), for "Military Works Officer".

(*Chapter I.—Preliminary.*)

(xiv) "Health Officer" means the senior executive medical officer in military employ on duty in a cantonment;

[1]* * * * * * *

(xvi) "hut" means any building, no material portion of which above the plinth level is constructed of masonry or of squared timber framing or of iron framing;

(xvii) "infectious or contagious disease" means cholera, leprosy, enteric fever, small pox, tuberculosis, diphtheria, plague, influenza, venereal disease, and any other epidemic, endemic or infectious disease which the [2][Central Government] may, by notification in the [3][Official Gazette] declare to be an infectious or contagious disease for the purposes of this Act;

(xviii) "inhabitant", in relation to a cantonment, or local area, means any person ordinarily residing or carrying on business or owning or occupying immoveable property therein, and in case of a dispute means any person declared by the District Magistrate to be an inhabitant;

(xix) "intoxicating drug" means opium, ganja, bhang, charas and any preparation or admixture thereof, and includes any other intoxicating substance or liquid which the [2][Central Government] [4]* * * may by notification in the [3][Official Gazette], declare to be an intoxicating drug for the purposes of this Act;

(xx) "market" includes any place where persons assemble for the purpose of selling meat, fish, fruit, vegetable, live stock or any other article of food;

[5][(xxa) "Military Estates Officer" means the officer appointed by the [6][Central Government] to perform the duties of the Military *Estates Officer under rules made under clauses (a) and (b) of* sub-section (2) of section 280;]

(xxi) "Military officer" means—

(*a*) a person who, being an officer within the meaning of the Army Act or the Indian Army Act, 1911, or the Air Force Act, [5][or
11
32 the Indian Air Force Act, 1932,] is commissioned and in pay as an officer doing military or air force duty with His Majesty's military or air forces, or is an officer doing such duty in any arm, branch or part of those forces; or

(*b*) a person doing military or air force duty as a warrant officer with either of those forces or with any arm, branch, or part thereof, whether he is or is not an officer within the meaning of the

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[1] Cl. (*xv*) rep. by s. 2 of the Cantonments (Amendment) Act, 1936 (24 of 1936).
[2] Subs. by the A. O. for "L. G."
[3] Subs. by the A. O. for "local official Gazette".
[4] The words "with the previous sanction of the G. G. in C." rep. by s. 2 of the Cantonments (Amendment) Act, 1925 (7 of 1925).
[5] Ins. by s. 2 of Act 24 of 1936.
[6] Subs. by the A. O. for "G. G. in C."

(*Chapter I.—Preliminary.*)

Army Act or the Indian Army Act, 1911, or the Air Force Act [1][, or the Indian Air Force Act, 1932 ;] 44 and 45 Vict., c. 58. VIII of 1911. XIV of 1932.

(xxii) "nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing, or which is or may be dangerous to life or injurious to health or property ;

(xxiii) "occupier" includes an owner in occupation of, or otherwise using his own land or building ;

(xxiv) "Officer Commanding the District" means the Officer Commanding any one of the districts into which India is for military purposes for the time being divided, or any brigade area which does not form part of any such district, or any area which the [2][Central Government] may, by notification in the [3][Official Gazette], declare to be such a district for all or any of the purposes of this Act ;

[1][(xxiva) "Officer Commanding the station" means the military officer for the time being in command of the forces in a cantonment, or, if that officer is the Officer Commanding the District or Officer Commanding-in-Chief, the Command, the military officer who would be in command of those forces in the absence of the Officer Commanding the District and Officer Commanding-in-Chief, the Command ;]

(xxv) "ordinary election" means an election held to fill a vacancy in the office of an elected member of a Board arising by efflux of time ;

(xxvi) "owner" includes any person who is receiving or is entitled to receive the rent of any building or land whether on his own account or on behalf of himself and others or an agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant ;

(xxvii) "party wall" means a wall forming part of a building and used or constructed to be used for the support or separation of adjoining buildings belonging to different owners, or constructed or adapted to be occupied by different persons ;

(xxviii) "private market" means a market which is not maintained by a [4][Board] and which is licensed by a [4][Board] under the provisions of this Act ;

(xxix) "private slaughter-house" means a slaughter-house which is not maintained by a [4][Board] and which is licensed by a [4][Board] under the provisions of this Act ;

(xxx) "public market" means a market maintained by a [4][Board];

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[1] Ins. by s. 2 of the Cantonments (Amendment) Act, 1936 (24 of 1936).
[2] Subs. by the A. O. for "G. G. in C."
[3] Subs. by the A. O. for "Gazette of India".
[4] Subs. by s. 69 of Act 24 of 1936 for "Cantonment Authority".

(Chapter I —Preliminary)

(xxxi) " public place " means any place which is open to the use and enjoyment of the public, whether it is actually used or enjoyed by the public or not,

(xxxii) " public slaughter house " means a slaughter house maintained by a [1][Board],

[2][(xxxiia) a person is deemed to reside in a cantonment if he maintains therein a house or a portion of a house which is at all times available for occupation by himself or his family even though he may himself reside elsewhere, provided that he has not abandoned all intention of again occupying such house either by himself or his family,]

(xxxiii) " shed ' means a slight or temporary structure for shade or shelter,

(xxxiv) " slaughter house ' means any place ordinarily used for the slaughter of animals for the purpose of selling the flesh thereof for human consumption

(xxxv) " soldier ' means a person who is a soldier or airman within the
45 meaning of the Army Act or the Air Force Act or is subject
58 1911 to the Indian Army Act 1911 and who is not a military officer,

(xxxvi) " spirituous liquor means any fermented liquor any wine, or any alcoholic liquid obtained by distillation or the sap of any kind of palm tree and includes any other liquid containing alcohol which the [3][Central Government] [4]* * * may, by notification in the [5][Official Gazette] declare to be a spirituous liquor for the purposes of this Act,

(xxxvii) " street " includes any way road, lane square court, alley [6][or passage] in a cantonment, whether a thoroughfare or not and whether built upon or not, over which the public have a right-of way and also the road way or foot way over any bridge or causeway,

(xxxviii) " vehicle " means a wheeled conveyance of any description which is capable of being used on a street, and includes a motor car, motor lorry, motor omnibus cart, locomotive, tram car, hand-cart, truck motor cycle, bicycle tricycle and rickshaw,[7]*

(xxxix) " water works " includes all lakes, tanks, streams, cisterns, springs, pumps, wells, reservoirs, aqueducts, water trucks, sluices, mains, pipes, culverts, hydrants, stand pipes, and conduits, and all machinery, lands, buildings, bridges and things, used for, or intended for the purpose of, supplying water to a cantonment, [2][and

(xl) " year " means the year commencing on the first day of April]

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[1] Subs by s 69 of the Cantonments (Amendment) Act 1936 (24 of 1936) for ' Cantonment Authority

[2] Ins by s 2 *ibid*

[3] Subs by the A O for L G

[4] The words with the previous sanction of the G G in C rep by s 2 of the Cantonments [illegible]

[5] [illegible]

[6] [illegible] or open space'

[7] [illegible]

CHAPTER II.

DEFINITION AND DELIMITATION OF CANTONMENTS.

Definition of Cantonments.

3. (*1*) The [1][Central Government] [2]* * * may, by notification in the [3][Official Gazette], declare any place or places in which any part of His Majesty's regular forces or regular air force is quartered or which, being in the vicinity of any such place or places, is or are required for the service of such forces to be a cantonment for the purposes of this Act and of all other enactments for the time being in force, and [4]* * * may, by a like notification, declare that any cantonment shall cease to be a cantonment.

(*2*) The [1][Central Government] [4]* * * may, by a like notification, define the limits of any cantonment for the aforesaid purposes.

[5][(*3*) When any place is declared a cantonment for the first time, the [6][Central Government] may, until a Board is constituted in accordance with the provisions of this Act, by order make any provision which appears necessary to [7][it] either for the administration of the Cantonment or for the constitution of the Board.]

Alteration of limits of cantonments.

4. (*1*) The [1][Central Government] [2]* * * may, by notification in the [3][Official Gazette], declare its intention to include within a cantonment any local area situated in the [8]* vicinity thereof or to exclude from a cantonment any local area comprised therein.

(*2*) Any inhabitant of a cantonment or local area in respect of which a notification has been published under sub-section (*1*) may, within six weeks from the date of the notification, submit in writing to the [1][Central Government] through the Officer Commanding-in-Chief, the Command, an objection to the notification, and the [1][Central Government] shall take such objection into consideration.

(*3*) On the expiry of six weeks from the date of the notification, the [1][Central Government] may [2]* * * after considering the objections, if any, which have been submitted under sub-section (*2*), by notification in the [3][Official Gazette], include the local area in respect of which the notification was published under sub-section (*1*), or any part thereof, in the cantonment or, as the case may be, exclude such area or any part thereof from the cantonment.

The effect of including area in cantonment.

5. When, by a notification under section 4, any local area is included in a cantonment, such area shall thereupon become subject to this Act and to all

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[1] Subs. by the A. O. for " L. G."
[2] The words " with the previous sanction of the G. G. in C." rep. by the A. O.
[3] Subs. by the A. O. for " local official Gazette ".
[4] The words " with the like sanction " rep. by the A. O.
[5] Ins. by s. 3 of the Cantonments (Amendment) Act, 1936 (24 of 1936).
[6] Subs. by the A. O. for " G. G. in C."
[7] Subs. by the A. O. for " him ".
[8] The word " immediate " rep. by s. 2 of the Cantonments (Amendment) Act, 1927 (26 of 1927).

(Chapter II —Definition and Delimitation of Cantonments)

other enactments for the time being in force throughout the cantonment and to all notifications, rules, regulations, bye laws, orders and directions issued or made thereunder.

Disposal of cantonment fund when area ceases to be a cantonment

6. (1) When, by a notification under section 3, any cantonment ceases to be a cantonment and the local area comprised therein is immediately placed under the control of a local authority, the balance of the cantonment fund and other property vesting in the [1][Board] shall vest in such local authority, and the liabilities of the [1][Board] shall be transferred to such local authority

(2) When, in like manner, any cantonment ceases to be a cantonment and the local area comprised therein is not immediately placed under the control of a local authority, the balance of the cantonment fund and other property vesting in the [1][Board] shall vest in His Majesty, and the liabilities of the [1][Board] shall be transferred to the [2][Central Government]

Disposal of cantonment fund when area ceases to be included in a cantonment

7. (1) When, by a notification under section 4, any local area forming part of a cantonment ceases to be under the control of a particular [1][Board] and is immediately placed under the control of some other local authority, such portion of the cantonment fund and other property vesting in the [1][Board] and such portion of the liabilities of the [1][Board], as the [3][Central Government] may, by general or special order, direct, shall be transferred to that other local authority

(2) When, in like manner, any local area forming part of a cantonment ceases to be under the control of a particular [1][Board] and is not immediately placed under the control of some other local authority, such portion of the cantonment fund and other property vesting in the [1][Board] shall vest in His Majesty, and such portion of the liabilities of the [1][Board] shall be transferred to the [2][Central Government], as the [3][Central Government] may, by general or special order, direct

Application of funds and property transferred under sections 6 and 7

8. Any cantonment fund or portion of a cantonment fund or other property of a [1][Board] vesting in His Majesty under the provisions of section 6 or section 7 shall be applied in the first place to satisfy any liabilities of the [1][Board] transferred under such provisions to the [2][Central Government], and in the second place for the benefit of the inhabitants of the local area which has ceased to be a cantonment or, as the case may be, part of a cantonment

Limitation of operation of Act

9. The [4][Central Government] may, [5]* * * by notification in the [6][Official Gazette], exclude from the operation of any part of this Act

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[1] Subs by s 69 of the Cantonments (Amendment) Act 1936 (24 of 1936), for "Cantonment Authority"
[2] Subs by the A O for "Secretary of State in Council"
[3] Subs by the A O for "G G in C"
[4] Subs by the A O for "L G"
[5] The words "with the previous sanction of the G G in C" rep by the A O
[6] Subs by the A O for "local official Gazette".

the whole or any part of a cantonment, or direct that any provision of this Act shall, in the case of any cantonment—

[1][(*a*) situated within the limits of a Presidency-town ; or

(*b*) in which the Board is superseded under section 54,]

apply with such modifications as may be so specified.

CHAPTER III.

[2][BOARDS] AND CANTONMENT BOARDS.

Boards.

Cantonment Board and Executive Officer.

[3][**10.** For every cantonment there shall be a Cantonment Board and an Executive Officer.

Incorporation of Cantonment Board.

11. Every Board shall, by the name of the place by reference to which the cantonment is known, be a body corporate having perpetual succession and a common seal with power to acquire and hold property both moveable and immoveable and to contract and shall, by the said name, sue and be sued.

Appointment of Executive Officer.

12. (*1*) The Executive Officer of every cantonment shall be appointed by the [4][Central Government], or by such person as the [4][Central Government] may authorise in this behalf, from the Service of Executive Officers constituted by rules made under section 280 :

Provided that an Executive Officer appointed before the commencement[5] of the Cantonments (Amendment) Act, 1936, shall, unless the [4][Central Government] otherwise directs in any case, be deemed to have been duly appointed in accordance with this sub-section. XXIV 1936.

(*2*) Not less than half the cost of the salary of the Executive Officer shall be paid [6][by the Central Government] and the balance from the cantonment fund :

Provided that the salary of an Executive Officer appointed before the commencement[5] of the Cantonments (Amendment) Act, 1936, shall, until the [4][Central Government] otherwise directs, continue to be paid from the source from which it was being paid at the commencement of the said Act. XXIV 1936.

(*3*) The Executive Officer shall be the Secretary of the Board and of every committee of the Board, but shall not be a member of the Board or of any such committee.

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[1] Subs. by s. 4 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for " specified in the notification in which there is no Board ".

[2] Subs. by s. 69, *ibid.*, for " Cantonment Authorities ".

[3] Ss. 10 to 14 were subs. by s. 5, *ibid.*, for the original sections.

[4] Subs. by the A. O. for " G. G. in C."

[5] The Cantonments (Amendment) Act, 1936 (24 of 1936), came into force on the 31st October, 1936.

[6] Subs. by the A. O. for " by Govt."

(*Chapter III —Boards and Cantonment Boards*)

Constitution of Cantonment Boards.

13. (*1*) Cantonments shall be divided into three classes, namely —

(i) Class I Cantonments, in which the civil population exceeds ten thousand,

(ii) Class II Cantonments, in which the civil population exceeds two thousand five hundred, but does not exceed ten thousand, and

(iii) Class III Cantonments, in which the civil population does not exceed two thousand five hundred

Provided that the [1][Central Government] may, by notification in the [2][Official Gazette] place in Class II any cantonment in the North-West Frontier Province or in British Baluchistan which if it were situated elsewhere would be a Class I Cantonment, or place in class III any such cantonment which if it were situated elsewhere would be a Class II Cantonment

(*2*) For the purposes of sub section (*1*) the civil population shall be calculated in accordance with the latest official census, or, if the [1][Central Government] by general or special order, so directs, in accordance with a special census taken for the purpose

(*3*) In Class I Cantonments, the Board shall consist of the following members, namely —

(*a*) the Officer Commanding the station or, if the [1][Central Government] so directs in respect of any cantonment, such other military officer as may be nominated in his place by the Officer Commanding in Chief, the Command,

(*b*) a Magistrate of the first class nominated by the District Magistrate,

(*c*) the Health Officer,

(*d*) the Executive Engineer,

(*e*) four military officers nominated by name by the Officer Commanding the station by order in writing,

(*f*) seven members elected under this Act

(*4*) In Class II Cantonments, the Board shall consist of the following members, namely —

(*a*) the Officer Commanding the station, or, if the [1][Central Government] so directs in respect of any cantonment, such other military officer as may be nominated in his place by the Officer Commanding in Chief, the Command,

(*b*) a Magistrate of the first class nominated by the District Magistrate;

(*c*) the Health Officer,

(*d*) the Executive Engineer;

(*e*) (i) in cantonments of which the civil population exceeds seven thousand five hundred, three military officers,

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[1] Subs by the A O for "G G in C"

[2] Subs by the A O for "Gazette of India".

(ii) in cantonments of which the civil population exceeds five thousand, but does not exceed seven thousand five hundred, two military officers,

(iii) in cantonments of which the civil population does not exceed five thousand and in cantonments which the [1][Central Government] by notification under the proviso to sub-section (*1*), has placed in Class II, whatever be the population, one military officer,

nominated by name by the Officer Commanding the station by order in writing;

(*f*) such number of members elected under this Act as is equal to the number of members constituted or nominated by or under clauses (*b*) to (*e*).

(*5*) In Class III Cantonments, the Board shall consist of the following members, namely :—

(*a*) the Officer Commanding the station, or if the [1][Central Government] so directs in respect of any cantonment, such other military officer as may be nominated in his place by the Officer Commanding-in-Chief, the Command;

(*b*) one military officer nominated by name by the Officer Commanding the station by order in writing;

(*c*) one member elected under this Act.

(*6*) The Officer Commanding the station may, if he thinks fit, with the sanction of the Officer Commanding-in-Chief, the Command, nominate in place of any military officer whom he is empowered to nominate under clause (*e*) of sub-section (*3*), clause (*e*) of sub-section (*4*) or clause (*b*) of sub-section (*5*), any person, whether in the service of the [2][Crown] or not, who is ordinarily resident in the cantonment or in the vicinity thereof.

(*7*) Every election or nomination of a member of a Board and every vacancy in the membership thereof shall be notified by the [3][Central Government] in the [4][Official Gazette].

Power to vary constitution of Boards in special circumstances.

14. (*1*) Notwithstanding anything contained in section 13, if the [1][Central Government] is satisfied—

(*a*) that, by reason of military operations it is necessary, or

(*b*) [5]* * * that, for the administration of the cantonment, it is desirable,

to vary the constitution of the Board in any cantonment under this section, the [1][Central Government] may, by notification in the [6][Official Gazette] make a declaration to that effect.

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[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "Govt."
[3] Subs. by the A. O. for "L. G."
[4] Subs. by the A. O. for "local official Gazette".
[5] The words "after consultation with the L. G." rep. by the A. O.
[6] Subs. by the A. O. for "Gazette of India".

(*Chapter III —Boards and Cantonment Boards*)

(*2*) Upon the making of a declaration under sub section (*1*), the Board in the cantonment shall consist of the following members, namely —

(*a*) the Officer Commanding the station,

(*b*) one military officer nominated by name by the Officer Commanding the station by order in writing,

(*c*) one member, not being a person in the service of the Government, nominated by the Officer Commanding the station

(*3*) Every nomination of a member of a Board constituted under this section, and every vacancy in the membership thereof, shall be notified by the [1][Central Government] in the [2][Official Gazette]

(*4*) The term of office of a Board constituted by a declaration under sub-section (*1*) shall not ordinarily extend beyond one year

Provided that the [3][Central Government] may from time to time, by a like declaration, extend the term of office of such a Board by any period not exceeding one year at a time

Provided also that the [3][Central Government] shall forthwith direct that the term of office of such a Board shall cease if in the opinion of the [3][Central Government] the reasons stated in the declaration whereby such Board was constituted, or its term of office was extended have ceased to exist

(*5*) When the term of office of a Board constituted under this section has expired or ceased, the Board shall be replaced by the former Board which, but for the declaration under sub section (*1*), would have continued to hold office, or, if the term of office of such former Board has expired, by a Board constituted under section 13]

15. (*1*) Save as otherwise provided in this section, the term of office of a member of a Board shall be three years and shall commence from the date of the notification of his election or nomination under [4][sub section (*7*) of section 13], or from the date on which the vacancy has occurred in which he is elected or nominated, whichever date is later Term of office of members

[5][Provided that the [3][Central Government] may, when satisfied that it is necessary in order to avoid administrative difficulty, extend the term of office of all the elected members of a Board by such period, not exceeding one year, as [6][it] thinks fit]

(*2*) The term of office of an *ex officio* member of a Board shall continue so long as he holds the office in virtue of which he is such a member

(*3*) The term of office of a member elected to fill a casual vacancy shall commence from the date of election, and shall continue so long only as the

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[1] Subs by the A O for "L G"

[2] Subs by the A O for "local official Gazette".

[3] Subs by the A O for "G G in C"

[4] Subs by s 6 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "sub section (2) of section 14

[5] Ins. by s 6, *ibid*

[6] Subs by the A O for "he"

member in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

(*4*) An outgoing member shall, unless the [1][Central Government] otherwise directs, continue in office until the election or nomination of his successor is notified under [2][sub-section (*7*) of section 13].

(*5*) Any outgoing member may, if qualified, be re-elected or re-nominated.

Filling of vacancies.

16. (*1*) Vacancies arising by efflux of time in the office of an elected member of a Board shall be filled by an ordinary election to be held on such date as the [1][Central Government] may, by notification in the [3][Official Gazette], direct.

(*2*) A casual vacancy shall be filled by a casual election the date of which shall be fixed by the [1][Central Government] by notification in the [3][Official Gazette], and shall be, as soon as may be, after the occurrence of the vacancy :

Provided that no casual election shall be held to fill a vacancy occurring within three months of any date on which the vacancy will occur by efflux of time, but such vacancy shall be filled at the next ordinary election.

Vacancies in special cases.

17. (*1*) If from any cause at an ordinary election no member is elected, or if the elected member is unwilling to serve on the Board, the outgoing member shall, if qualified and willing to serve, be deemed to have been re-elected.

(*2*) If in any such case the outgoing member is not qualified or is not willing to serve, or if at a casual election no member is elected, the vacancy shall be filled by nomination by the [1][Central Government] [4][after consultation with] the Officer Commanding-in-Chief, the Command.

(*3*) The term of office of a member nominated or deemed to have been re-elected under this section shall expire at the time at which it would have expired if he had been elected at the ordinary or casual election, as the case may be.

Oath or affirmation.

18. (*1*) Every person who is by virtue of his office, or who is nominated or elected to be, a member of a Board shall, before taking his seat, make at a meeting of the Board an oath or affirmation of his allegiance to the Crown in the following form, namely :—

"I, A. B., having become / been elected / been nominated a member of this Board, do solemnly swear (*or* affirm) that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, his heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter."

(*2*) If any such person fails to make the oath or affirmation within such time as the [1][Central Government] considers reasonable, the [1][Central Govern-

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[1] Subs. by the A. O. for "L. G."

[2] Subs. by s. 6 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "sub-section (2) of section 14".

[3] Subs. by the A. O. for "local official Gazette".

[4] Subs. by the A. O. for "with the concurrence of".

(*Chapter III —Boards and Cantonment Boards.*)

ment] shall, by notification in the [1][Official Gazette], declare his seat to be vacant

19. (*1*) Any nominated or elected member of a Board who wishes to resign his office may forward his resignation in writing through the President of the Board to the Officer Commanding in Chief, the Command, who shall forward it for orders to the [2][Central Government] — Resignation.

(*2*) If the [2][Central Government] accepts the resignation, such acceptance shall be communicated to the Board, and thereupon the seat of the member resigning shall become vacant

20. (*1*) The [3][Officer Commanding the station] [4][if a member of the Board] shall be the President of the Board — President and Vice President

[5][Provided that when a military officer holding the office of President ceases to be the Officer Commanding the station merely by reason of a temporary absence from the station on duty or on station leave, or during the transfer of his headquarters to a hill station, he shall not vacate the office of President]

[6][(*2*) Where the Officer Commanding the station is not a member of the Board, the military officer nominated in his place under clause (*a*) of sub-section (*3*), sub section (*4*) or sub section (*5*) of section 13 shall be President of the Board

(*3*) In every Board in which there is more than one elected member, there shall be a Vice President elected by the elected members only and from among their number]

21. [7][(*1*) The term of office of a Vice President shall be three years or the residue of his term of office as a member, whichever is less] — Term of office of Vice-President

(*2*) A Vice President may resign his office by notice in writing to the President and, on the resignation being accepted by the Board, the office shall become vacant

22. (*1*) It shall be the duty of the President of every Board— — Duties of President.

(*a*) unless prevented by reasonable cause, to convene and preside at all meetings of the Board and to regulate the conduct of business thereat ,

(*b*) to exercise supervision and control over the financial and executive administration of the Board ,

(*c*) to perform all the duties and exercise all the powers specifically imposed or conferred on the President by or under this Act; and

(*d*) subject to any restrictions, limitations and conditions imposed by this Act, to exercise executive power for the purpose of carrying

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[1] Subs by the A O for "local official Gazette"

of 1925), for "Commanding

of 1936)
of 1927)

[6] Subs. by s 7 of Act 24 of 1936, for the original sub section.
[7] Subs by s 8, *ibid*, for the original sub section

out the provisions of this Act and to be directly responsible for the fulfilment of the purposes of this Act.

(*2*) The President may, by order in writing, empower the Vice-President to exercise all or any of the powers and duties referred to in clause (*c*) of sub-section (*1*) other than any power, duty or function which he is by resolution of the Board expressly forbidden to delegate.

(*3*) The exercise or discharge of any powers, duties or functions delegated by the President under this section shall be subject to such restrictions, limitations and conditions, if any, as may be laid down by the President and to the control of, and to revision by, the President.

(*4*) Every order made under sub-section (*2*) shall forthwith be communicated to the Board and to the [1][Officer Commanding-in-Chief, the Command].

Duties of Vice-President.

23. It shall be the duty of the Vice-President of every Board—

(*a*) in the absence of the President and unless prevented by reasonable cause, to preside at meetings of the Board and when so presiding to exercise the authority of the President under sub-section (*1*) of section 22;

(*b*) during the incapacity or temporary absence of the President or pending his appointment or succession, to perform any other duty and exercise any other power of the President; and

(*c*) to exercise any power and perform any duty of the President which may be delegated to him under sub-section (*2*) of section 22.

Duties of the Executive Officer.

24. The Executive Officer shall perform all the duties imposed upon him by or under this Act, and shall be responsible for the custody of all the records of the [2][Board], and shall arrange for the performance of such duties relative to the proceedings of the Board or of any Committee of the Board or of any Committee of Arbitration constituted under this Act, as those bodies may respectively impose on him, and shall comply with every requisition of the [2][Board], on any matter pertaining to the administration of the cantonment.

Special power of the Executive Officer.

25. The Executive Officer may, in cases of emergency, direct the execution of any work or the doing of any Act which would ordinarily require the sanction of the [2][Board] and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the cantonment fund :—

Provided that—

(*a*) [3]* * * he shall not act under this section without the previous sanction of the President or, in his absence, of the Vice-President;

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[1] Subs. by s. 2 of the Cantonments (Amendment) Act, 1926 (35 of 1926), for "Officer Commanding the District".

[2] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "Cantonment Authority".

[3] The words "where there is a Board" rep. by s. 9, *ibid.*

(*Chapter III —Boards and Cantonment Boards*)

(*b*) he shall not act under this section in contravention of any order of the [1][Board] prohibiting the execution of any particular work or the doing of any particular act, and

(*c*) he shall report forthwith the action taken under this section and the reasons therefor to the [1][Board]

Elections

26. (*1*) [2]* * * [3][The Board or, where a Board is not constituted in any place declared by notification under sub section (*1*) of section 3 to be a cantonment the Officer Commanding the station], shall prepare and publish an electoral roll showing the names of persons qualified to vote at elections to the Board Such roll shall be prepared, revised and finally published in such manner and on such date in each year as the [4][Central Government] may by rule prescribe — Electoral rolls

(*2*) Every person whose name appears in the final electoral roll shall, so long as the roll remains in force, be entitled to vote at an election to the Board, and no other person shall be so entitled

(*3*) When a cantonment has been divided into wards, or the inhabitants into classes, the electoral roll shall be divided into separate lists for each ward or class, as the case may be

(*4*) If a new electoral roll is not published in any year on the date prescribed, the [4][Central Government] may direct that the old electoral roll shall continue in operation until the new roll is published

27. (*1*) The following persons shall if not otherwise disqualified, be entitled to be enrolled as electors, namely — Qualification of electors

(*a*) every person who in any year has, on or before such date as may be fixed by the [4][Central Government] in this behalf by notification in the [5][Official Gazette] (hereinafter in this section referred to as the aforesaid date), been assessed directly and on his own account to taxes under this Act (other than octroi, toll or terminal tax) the aggregate value whereof is not less than such amount as the [4][Central Government] may by rule prescribe, and who on the aforesaid date is not in arrears in the payment of any such tax,

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[1] Subs by s 69 of the Cantonments (Amendment) Act 1936 (24 of 1936), for "Cantonment Authority"

[2] The words 'Where a Board is to be constituted in any cantonment otherwise than in accordance with the proviso to sub section (*1*) of section 14,' rep by s 10, *ibid*

[3] Subs by s 10, *ibid*, for 'the Cantonment Authority'

[4] Subs by the A O for "L G"

[5] Subs by the A O for 'local Official Gazette

(*b*) every person who has for a period of not less than twelve months immediately preceding the aforesaid date resided in the cantonment and on the aforesaid date—

(*i*) is the owner or the mortgagee in possession or the lessee of any building or land in the cantonment, of an annual value calculated in such manner, and of not less than such amount, as the [1][Central Government] may by rule prescribe; or

(*ii*) is carrying on any business in the cantonment from which he derives an annual income calculated in such manner, and of not less than such amount, as the [1][Central Government] may by rule prescribe; or

(*iii*) [2][has passed the Matriculation or other equivalent examination] of any University established by law in British India; or

[3][(*iv*) is a person whose name is entered on the current electoral roll of the constituency of which the cantonment forms part for the purposes of the Central or Provincial Legislatures; or]

[3][(*v*)] is a retired or pensioned officer, whether commissioned or non-commissioned, of His Majesty's forces;

(*c*) every person who has, [4][for] a period of not less than twelve months immediately preceding the aforesaid date, resided in the cantonment and has during that period been assessed to income-tax.

(*2*) A person, notwithstanding that he is otherwise qualified, shall not be entitled to be enrolled as an elector if he on the aforesaid date—

(*i*) is not a British subject, or

(*ii*) is less than 21 years of age, or

(*iii*) has been adjudged by a competent Court to be of unsound mind, or

(*iv*) is an undischarged insolvent, or

(*v*) has been sentenced by a Criminal Court to imprisonment for a term exceeding [5][two years] or to transportation [6][for an offence which is declared by the [7][Central Government] to be such as to unfit him to become an elector] [8]* * * * or has been sentenced by a Criminal Court for any offence under Chapter IXA of the Indian Penal Code: XLV of 1860.

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by s. 11 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "is a graduate".
[3] Cl. (*iv*) was ins., and the original cl. (*iv*) re-numbered (*v*), by s. 11, *ibid.*
[4] Subs. by s. 11, *ibid.*, for "during".
[5] Subs. by s. 11, *ibid*, for "six months".
[6] Ins. by s. 11, *ibid.*
[7] Subs. by the A. O. for "G. G. in C."
[8] The words "or has been ordered to find security for good behaviour under the Code of Criminal Procedure, 1898" rep. by s. 11 of Act 24 of 1936.

Provided that the [1][Central Government] may, by order in writing, remove any disqualification incurred by a person under clause (*v*),

[2][Provided further that any disqualification incurred by a person under clause (*v*) shall terminate on the lapse of three years from the expiry of the sentence or order.]

(*3*) If any person having been enrolled as an elector in any electoral roll subsequently becomes subject to any of the disqualifications referred to in clauses (*i*), (*iii*), (*iv*) and (*v*) of sub-section (*2*), his name shall be removed from the electoral roll unless, in the case referred to in clause (*v*), the disqualification is removed by the [1][Central Government].

Qualification for being a member of the Board

28. (*1*) Save as hereinafter provided, every person, not being [3][a person in the military or civil service of the Crown in India], whose name is entered on the electoral roll of a cantonment shall be qualified for election as a member of the Board in that cantonment.

(*2*) No person shall be qualified for election or nomination as a member of a board, if he—

(*a*) has been dismissed from [4][the service of the Crown] and is debarred from re-employment therein, or is a dismissed servant of [5][a Board or an authority which, before the commencement[6] of the Cantonments (Amendment) Act, 1936, exercised and performed the powers and duties of a Cantonment Authority under this Act],

(*b*) is debarred from practising as a legal practitioner by order of any competent authority,

(*c*) holds any place of profit in the gift or at the disposal of the Board, or is a [7]* * * * police officer, or is the servant or employer of a member of the Board, or

(*d*) is interested in a subsisting contract made with, or in work being done for, the Board except as a shareholder (other than a director) in an incorporated company, or

[8][(*dd*) is an officer or servant, permanent or temporary, of a Board, or]

(*e*) is disqualified under any other provision of this Act.

Provided that—

(*i*) any of the disqualifications referred to in clauses (*a*) and (*b*) may be removed by an order of the [1][Central Government] in this behalf, and

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1 Subs. by the A. O. for "L. G."

7 ... Act, 1925 (7 of 1925) ...

8 Ins. by s. 12 of Act 24 of 1936.

(Chapter III.—Boards and Cantonment Boards.)

(ii) a person shall not be deemed to have any interest in such a contract or work as is referred to in clause (d) by reason only of his having a share or interest in—

(a) any lease or sale or purchase of immoveable property or any agreement for the same ; or

(b) any agreement for the loan of money or any security for the payment of money only ; or

(c) any newspaper in which any advertisement relating to the affairs of the Board is inserted ; or

(d) the sale to the Board of any articles in which he regularly trades or the purchase from the Board of any articles, to a value in either case not exceeding Rs. 1,500 in the aggregate in any year during the period of the contract or work.

Interpretation.

29. For the purposes of sections 26, 27 and 28—

(a) "person" means an individual human being, and

(b) a person shall be deemed to pay a tax directly if he pays the tax either himself or through a legally appointed agent.

Joint families, etc.

30. Notwithstanding anything hereinbefore contained, the [1][Central Government] may make rules conferring on the manager or representative of an undivided family or of any company or firm or other association or body or on any trustee of any land a right to be enrolled as an elector or to be nominated as a candidate at elections to a Board.

Power to make rules regulating elections.

31. The [1][Central Government] may, either generally or specially for any cantonment or group of cantonments, after previous publication, make rules consistent with this Act to regulate all or any of the following matters for the purpose of the holding of elections under this Act, namely :—

(a) the division of a cantonment into wards, or of the inhabitants of a cantonment into classes, or both ;

(b) the determination of the number of members to be elected by each ward or class of persons ;

(c) the method by which the annual value of buildings and lands shall be calculated for the purposes of section 27 ;

(d) the preparation, revision and final publication of electoral rolls ;

(e) the registration of electors, the nomination of candidates, the time and manner of holding elections and the method by which votes shall be recorded ;

(f) the authority by which and the manner in which disputes relating to electoral rolls or arising out of elections shall be decided, and the powers and duties of such authority and the circumstances in which such authority may declare a casual vacancy to have been created or any candidate to have been elected ;

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[1] Subs. by the A. O. for "L. G."

(g) any other matter relating to elections or election disputes in respect of which the [1][Central Government] is empowered to make rules under this Chapter or in respect of which this Act makes no provision or makes insufficient provision and provision is in the opinion of the [1][Central Government] necessary

Members

32 No member of a Board shall vote at a meeting of the Board on any question relating to his own conduct or on any matter other than a matter affecting generally the inhabitants of the cantonment which affects his own pecuniary interest or the valuation of any property in respect of which he is directly or indirectly interested o of any property of or for which he is a manager or agent **Member not to vote on matter in which he is interested.**

33 Every member of a Board shall be liable for the loss waste or misapplication of any money or other property belonging to the Board if such loss waste or misapplication is a direct consequence of his neglect or misconduct while such member, and a suit for compensation for the same may be instituted against him either by the Board or by the [2][Central Government] **Liability of members**

34 [3][(1) The [1][Central Government] may remove from a Board any member thereof who— **Removal of members**

(a) becomes subject to any of the disqualifications specified in sub section (2) of section 27 or in sub section (2) of section 28, or

(b) has absented himself for more than three consecutive months from the meetings of the Board and is unable to explain such absence to the satisfaction of the Board or

(c) has knowingly contravened the provisions of section 32, or

(d) being a legal practitioner acts or appears on behalf of any other person against the Board in any legal proceeding or against the [4][Crown] in any such proceeding relating to any matter in which the Board is or has been concerned or acts or appears on behalf of any person in any criminal proceeding instituted by or on behalf of the Board against such person]

(2) The [1][Central Government] may remove from a Board any member who in the opinion of the [1][Central Government] has so flagrantly abused in any manner his position as a member of the Board as to render his continuance as a member detrimental to the public interests

(3) No member shall be removed from a Board under this section unless he has been given a reasonable opportunity of showing cause against his removal

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[1] Subs by the A O for L G

[2] Subs by the A O for Secretary of State for India in Council

[3] Subs by s 4 of the Cantonments (Amendment) Act 19 (3 of 19) for the original sub section

[4] Subs by the A O for Secretary of State in Council

(*Chapter III.—Boards and Cantonment Boards.*)

Consequences of removal.

[1][35. *(1)* A member removed under clause *(b)* of sub-section *(1)* of section 34 shall, if otherwise qualified, be eligible for re-election or re-nomination.

(2) A member removed under clause *(c)* or clause *(d)* of sub-section *(1)* of section 34 shall not be eligible for re-election or nomination for the period during which, but for such removal, he would have continued in office.

(3) A member removed under sub-section *(2)* of section 34 shall not be eligible for re-election or nomination until the expiry of three years from the date of his removal.]

Servants.

Disqualification of person as servant of Board.

36. *(1)* No person who has directly or indirectly by himself or his partner any share or interest in a contract with, by or on behalf of a [2][Board] or in any employment under, by or on behalf of a [2][Board], otherwise than as a servant of the [2][Board], shall become or remain a servant of such [2][Board].

(2) A servant of a [2][Board] who knowingly acquires or continues to have directly or indirectly by himself or his partner any share or interest in a contract with, by or on behalf of the [2][Board] or, in any employment under, by or on behalf of the [2][Board], otherwise than as a servant of the [2][Board], shall be deemed to have committed an offence under section 168 of the Indian Penal Code. XL

(3) Nothing in this section shall apply to any share or interest in any contract with, by or on behalf of, or employment under, by or on behalf of a [2][Board] if the same is a share in a company contracting with, or employed by, or on behalf of, the [2][Board] or is a share or interest acquired or retained with the permission of the [3][Officer Commanding-in-Chief, the Command,] in any lease or sale to, or purchase by, the [2][Board] of land or buildings or in any agreement for the same.

[4][*(4)* Every person applying for employment as a servant of a Board shall, if he is related by blood or marriage to any member of the Board or to any person, not being a menial servant, in receipt of remuneration from the Board, notify the fact and the nature of such relationship to the appointing authority before the appointment is made, and if he has failed to do so, his appointment shall be invalid but without prejudice to the validity of anything previously done by him.]

Cantonment servant to be deemed a

[5][**36A.** Every officer or servant, permanent or temporary, of a [2][Board] shall be deemed to be a public servant within the meaning of the Indian Penal

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[1] Subs. by s. 5 of the Cantonments (Amendment) Act, 1927 (26 of 1927), for the original s. 35.

[2] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "Cantonment Authority".

[3] Subs. by s. 2 of the Cantonments (Amendment) Act, 1926 (35 of 1926), for "Officer Commanding the District".

[4] Ins. by s. 13 of Act 24 of 1936.

[5] Ins. by s. 5 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

(*Chapter III —Boards and Cantonment Boards*)

1860 Code, and in the definition of "Legal remuneration" in section 161 of that Code the word "Government" shall, for the purposes of this section, be deemed to include a [1][Board]] public servant

Procedure

Meetings

37. (*1*) Every Board shall ordinarily hold at least one meeting in every month on such day as may be fixed, and of which notice shall be given in such manner as may be provided by regulations made by the Board under this Chapter

(*2*) The President may, whenever he thinks fit, and shall upon a requisition in writing by not less than one fourth of the members of the Board, convene a special meeting

(*3*) Any meeting may be adjourned until the next or any subsequent day, and an adjourned meeting may be further adjourned in like manner

Business to be transacted

38. Subject to any regulation made by the Board under this Chapter, any business may be transacted at any meeting

Provided that no business relating to the imposition abolition or modification of any tax shall be transacted at a meeting unless notice of the same and of the date fixed therefor has been sent to each member not less than seven days before that date

Quorum

39 (*1*) The quorum necessary for the transaction of business at a meeting of a Board [2][in which there is more than one elected member] shall be five or one half of the number of members of the Board actually holding office at the time, whichever is the greater number

[3]* * * * * * *

[2][(*1A*) The quorum necessary for the transaction of business at a meeting of a Board constituted under sub section (5) of section 13 or under sub section (*1*) of section 14, shall be two]

(*2*) If a quorum is not present, the President shall adjourn the meeting and the business which would have been brought before the original meeting if there had been a quorum present thereat shall be brought before, and may be transacted at, an adjourned meeting, whether there is a quorum present or not

Presiding Officer

[4][**40.** In the absence of—

(*a*) both the President and the Vice President from any meeting of a Board in which there is more than one elected member,

(*b*) the President from a meeting of a Board constituted under sub-section (*5*) of section 13 or sub section (*1*) of section 14,

the members present shall elect one from among their own number to preside]

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[1] Subs. by s 60 of the Cantonments (Amendment) Act 1936 (24 of 1936), for 'Cantonment Authority

[2] Ins by s 14 *ibid*

[3] The proviso was rep by s 14 *ibid*

[4] Subs by s 15, *ibid*, for the original section.

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Minutes.

41. (*1*) Minutes of the proceedings of each meeting shall be recorded in a book and shall be signed by the President before the close of the meeting, and shall, at such times and in such place as may be fixed by the Board, be open to inspection free of charge by any inhabitant of the cantonment.

(*2*) Copies of the minutes shall, as soon as possible after each meeting, be forwarded for information to [1][the Officer Commanding-in-Chief, the Command,] the Officer Commanding the District, the Officer Commanding the brigade area, [2][the District Magistrate and the Military Estates Officer].

Meetings to be public.

42. Every meeting of a Board shall be open to the public unless in any case the President, for reasons to be recorded in the minutes, otherwise directs.

Method of deciding questions.

43. (*1*) All questions coming before a meeting shall be decided by the majority of the votes of the members present and voting.

(*2*) In the case of an equality of votes, the President shall have a second or casting vote.

(*3*) The dissent of any member from any decision of the Board shall, if the member so requests, be entered in the minutes, together with a short statement of the grounds for such dissent.

Committees for Bazars.

[3][**43A.** (*1*) Every Board constituted under section 13 in a Class I Cantonment or Class II Cantonment shall appoint a committee consisting of the elected members of the Board, the Health Officer and the Executive Engineer for the administration of such areas in the cantonment as the [4][Central Government] may, by notification in the [5][Official Gazette] declare to be bazar areas, and may delegate its powers and duties to such committee in the manner provided in clause (*e*) of sub-section (*1*) of section 44.

(*2*) The Vice-President of the Board shall be the Chairman of the committee appointed under sub-section (*1*).]

Power to make regulations.

44. (*1*) A Board may make regulations consistent with this Act and with the rules made thereunder to provide for all or any of the following matters, namely :—

(*a*) the time and place of its meetings ;

(*b*) the manner in which notice of the meeting shall be given ;

(*c*) the conduct of proceedings at meetings and the adjournment of meetings ;

(*d*) the custody of the common seal of the Board and the purposes for which it shall be used ; and

(*e*) the appointment of committees for any purpose and the determination of all matters relating to the constitution and procedure of such committees, and the delegation to such committees,

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[1] Ins. by s. 3 of the Cantonments (Amendment) Act, 1926 (35 of 1926).

[2] Subs. by s. 16 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "and the Distri t Magistrate".

[3] Ins. by s. 17, *ibid*.

[4] Subs. by the A. O. for "G. G. in. C."

[5] Subs. by the A. O. for "Gazette of India".

subject to any conditions which the Board thinks fit to impose, of any of the powers or duties of the Board under this Act other than a power to make regulations or bye laws

(*2*) No regulation made under clause (*e*) of sub section (*1*) shall take effect until it has been approved by the [1][Central Government]

(*3*) No regulation made under this section shall take effect until it has been published in such manner as the [1][Central Government] may direct.

45. (*1*) A [2][Board] may— Joint action with other local authority

(*a*) join with any other local authority—

(*i*) in appointing a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee,

(*ii*) in delegating to such committee power to frame terms binding on the [2][Board] and such other local authority as to the construction and future maintenance of any joint work or to exercise any power which might be exercised by [3][the Board or by such other local authority], and

(*iii*) in making rules for regulating the proceedings of any such committee relating to the purposes for which it has been appointed; or

(*b*) with the previous sanction of [4][the Officer Commanding in Chief, the Command and] the [1][Provincial Government concerned], enter into an agreement with any other local authority regarding the levy of any tax or toll whereby the said tax or toll respectively leviable by the [5][Board and by such other local authority] may be levied together instead of separately within the limits of the aggregate area comprising the areas subject to the control of the [6][Board and such other local authority]

(*2*) If any difference of opinion arises between any [7][Board and other local authority] acting together under this section, the decision thereon of the [1][Central Government] or of an officer appointed by the [1][Central Government] in this behalf shall be final

(*3*) When any agreement such as is referred to in clause (*b*) of sub section (*1*) has been entered into, then—

(*a*) where the agreement relates to an octroi or terminal tax or toll, the other local authority with which the [2][Board] has made

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[1] Subs by the A O for "L G

[2] Subs by s 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "Cantonment Authority"

[3] Subs by s 18 *ibid*, for "either of the said authorities".

[4] Ins by s 18, *ibid*

[5] Subs by s 18, *ibid*, for "authorities so contracting"

[6] Subs. by s 18, *ibid*, for "said authorities"

[7] Subs by s 18, *ibid*, for "authorities"

(*Chapter III.—Boards and Cantonment Boards.*)

such agreement shall have the same powers to establish octroi limits and octroi stations and places for the collection of the terminal tax and terminal toll within the cantonment, as it has within the area ordinarily subject to its control;

(*b*) such other local authority shall have the same power of collecting such tax or toll in the cantonment, and the provisions of any enactment in force relating to the levy of such tax or toll by such other local authority shall apply in the same manner, as if the cantonment were comprised within the area ordinarily subject to its control; and

(*c*) the total of the collection of such tax and toll made in the cantonment and in the area ordinarily subject to the control of such other local authority and the costs thereby incurred shall be divided between the cantonment fund and the fund subject to the control of such other local authority, in such proportion as may have been determined by the agreement.

Report on administration.

[1][**45A.** Every board shall, as soon as may be after the close of the year and not later than the date fixed in this behalf by the [2][Central Government], submit to the [2][Central Government] through the Officer Commanding-in-Chief, the Command, a report on the administration of the cantonment during the preceding financial year, in such form and containing such details as the [2][Central Government] may direct. The comments, if any, of the Officer Commanding-in-Chief, the Command, on such report shall be communicated by him to the Board which shall be allowed a reasonable time to furnish a reply thereto, and the comments together with the reply, if any, shall be forwarded to the [2][Central Government] along with the report.]

Control.

Power of Central Government to require production of documents.

46. The [2][Central Government] [3]* * * may at any time require a [4][Board]—

(*a*) to produce any record, correspondence, plan or other document in its possession or under its control;

(*b*) to furnish any return, plan, estimate, statement, account or statistics relating to its proceedings, duties or works;

(*c*) to furnish or obtain and furnish any report.

Inspection.

47. The [5][Central Government or the Officer Commanding-in-Chief, the Command,] may depute any person in the service of the [6][Crown] to inspect

[1] Ins. by s. 19 of the Cantonments (Amendment) Act, 1936 (24 of 1936).
[2] Subs. by the A. O. for "G. G. in C."
[3] The words "or the L. G." rep. by the A. O.
[4] Subs. by s. 69 of Act 24 of 1936, for "Cantonment Authority".
[5] The words "G. G. in C. or the Officer Commanding-in-Chief, the Command" were subs. for the words "Officer Commanding the District" by s. 4 of the Cantonments (Amendment) Act, 1926 (35 of 1926); and the words "Central Government" were subs. for the words "G. G. in C." by the A. O.
[6] Subs. by the A. O. for "Govt."

or examine any department of the office of, or any service or work undertaken by, or thing belonging to, a [1][Board] and to report thereon, and the [1][Board] and its officers and servants shall be bound to afford the person so deputed access at all reasonable times to the premises and property of the [1][Board] and to all records, accounts and other documents the inspection of which he may consider necessary to enable him to discharge his duties

Power to call for documents

48 [2][The Officer Commanding in Chief, the Command,] may, by order in writing,—

(*a*) call for any book or document in the possession or under the control of the [1][Board],

(*b*) require the [1][Board] to furnish such statements, accounts, reports and copies of documents relating to its proceedings, duties or works as he thinks fit

Power to require execution of work, etc

49. If, on receipt of any information or report obtained [3][under section 46 or section 47] or section 48, the [4][Central Government or the Officer Commanding in Chief, the Command,] is of opinion—

(*a*) that any duty imposed on a [1][Board] by or under this Act has not been performed or has been performed in an imperfect, inefficient or unsuitable manner, or

(*b*) that adequate financial provision has not been made for the performance of any such duty,

[5][it or] he may [6]* * * direct the [1][Board], within such period as [5][it or] he thinks fit, to make arrangements to [5][its or] his satisfaction for the proper performance of the duty, or, as the case may be, to make financial provision to [5][its or] his satisfaction for the performance of the duty

Provided that, unless in the opinion of the [7][Central Government or the Officer Commanding in Chief, the Command, as the case may be,] the immediate execution of such order is necessary, [5][it or] he shall, before making

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[1] Subs by s 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for Cantonment Authority'

[2] The words G G in C or the Officer Commanding in Chief the Command were subs for the words Officer Commanding the District by s 4 of the Cantonments (Amendment) Act 1926 (35 of 1926) and the words The G G in C or were rep by s 20 of Act 24 of 1936

[3] Subs by s 21 of Act 24 of 1936 for under section 47

[4] The words G G in C or the Officer Commanding in Chief, the Command were subs. for the words Officer Commanding the District by s 5 of Act 35 of 1926, and the words 'Central Govt were subs for the words G G in C by the A O

[5] Ins by the A O

[6] [illegible] ds ' after [illegible] cer Com [illegible] the case [illegible] and 6 of [illegible] G G in C by the A. O

any direction under this section, give the [1][Board] an opportunity of showing cause why such direction should not be made.

Power to provide for enforcement of direction under section 49.

50. If, within the period fixed by a direction made under section 49, any action the taking of which has been directed under that section has not been duly taken, the [2][Central Government or the Officer Commanding-in-Chief, the Command, as the case may be,] may make arrangements for the taking of such action, and may direct that all expenses connected therewith shall be defrayed out of the cantonment fund.

Power to override decision of Board.

51. (*1*) If the President dissents from any decision of the Board, which he considers prejudicial to the health, welfare or discipline of the troops in the cantonment, he may, for reasons to be recorded in the minutes, by order in writing, direct the suspension of action thereon for any period not exceeding one month and, if he does so, shall forthwith refer the matter to the Officer Commanding-in-Chief, the Command, [3][the reference being made, save in cases where the Officer Commanding the District is himself the Officer Commanding-in-Chief, the Command, for the purposes of this Act,] through the Officer Commanding the District, who may make such recommendations thereon as he thinks fit.

(*2*) If the District Magistrate considers any decision of a [1][Board] to be prejudicial to the public health, safety or convenience, he may, after giving notice in writing of his intention to the [1][Board], refer the matter to the [4][Central Government]; and, pending the disposal of the reference to the [4][Central Government], no action shall be taken on the decision.

(*3*) If any Magistrate who is a member of a Board, being present at a meeting, dissents from any decision which he considers prejudicial to the public health, safety or convenience, he may, for reasons to be recorded in the minutes and after giving notice in writing of his intention to the President, report the matter to the District Magistrate; and the President shall, on receipt of such notice, direct the suspension of action on the decision for a period sufficient to allow of a communication being made to the District Magistrate and of his taking proceedings as provided by sub-section (*2*).

Power of Officer Commanding-in-Chief, the Command, on reference under section 51 or otherwise.

52. (*1*) The Officer Commanding-in-Chief, the Command, may at any time

[5]* * *

(*a*) direct that any matter or any specific proposal other than one which has been referred to the [4][Central Government] under sub-section (*2*) of section 51 be considered or re-considered by the [1][Board]; or

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1 Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "Cantonment Authority".

2 The words "G. G. in C. or the Officer Commanding-in-Chief, the Command, as the case may be," were subs. for the words "Officer Commanding the District" by ss. 5 and 6 of the Cantonments (Amendment) Act, 1926 (35 of 1926), and the words "Central Govt." were subs. for the words "G. G. in C." by the A. O.

3 Ins. by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927).

4 Subs. by the A. O. for "L. G."

5 Certain words were rep. by s. 3 of the Cantonments (Amendment) Act, 1931 (7 of 1931).

(Chapter III.—Boards and Cantonment Boards)

(b) direct the suspension, for such period as may be stated in the order, of action on any decision of a [1][Board], other than a decision which has been referred to him under sub section (1) of section 51, and thereafter cancel the suspension or [2][after giving the Board a reasonable opportunity of showing cause why such direction should not be made], direct that the decision shall not be carried into effect or that it shall be carried into effect with such modifications as he may specify

(2) When any decision of a Board has been referred to him under sub-section (1) of section 51, the Officer Commanding in Chief the Command, may, by order in writing,—

(a) cancel the order given by the President directing the suspension of action, or

(b) extend the duration of the order for such period as he thinks fit; or

[3][(c) after giving the Board a reasonable opportunity of showing cause why such direction should not be made, direct that the decision shall not be carried into effect or that it shall be carried into effect by the Board with such modifications as he may specify]

Powers of Central Government on a reference made under section 51.

53. When any decision of a [1][Board] has been referred to the [4][Central Government] under sub section (2) of section 51, the [4][Central Government] may, after consulting the Officer Commanding in Chief, the Command, by order in writing,—

(a) direct that no action be taken on the decision, or

(b) direct that the decision be carried into effect either without modification or with such modifications as it may specify.

Supersession of Board

54. (1) If, in the opinion of the [4][Central Government], any Board is not competent to perform or persistently makes default in the performance of the duties imposed on it by or under this Act or otherwise by law, or exceeds or abuses its powers, the [4][Central Government] may [5]* * * by an order published, together with the statement of the reasons therefor, in the [6][Official Gazette], declare the Board to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and supersede it for such period as may be specified in the order

Provided that no Board shall be superseded unless a reasonable opportunity has been given to it to show cause against the supersession

[1] Subs by s 59 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for ' Cantonment Authority

[2] Ins by s 22, ibid

[3] Subs by s 22, ibid, for the original clause.

[4] Subs by the A O for "L G '

[5] The words " with the previous sanction of the G G in C." rep. by the A O

[6] Subs by the A O for "local official Gazette

(2) When a Board is superseded by an order under sub-section (1)—

(a) all members of the Board shall, on such date as may be specified in the order, vacate their offices as such members but without prejudice to their eligibility for election or nomination under clause (c);

(b) during the supersession of the Board, all powers and duties conferred and imposed upon the Board by or under this Act or otherwise by law shall be exercised and performed by the [1][Officer Commanding the station] subject to such reservation, if any, as the [2][Central Government] may prescribe in this behalf; and

(c) before the expiry of the period of supersession elections shall be held and nominations made for the purpose of reconstituting the Board.

Validity of Proceedings.

Validity of proceedings, etc.

55. (1) No act or proceeding of a Board or of any committee of a Board shall be invalid by reason only of the existence of a vacancy in the Board or committee.

(2) No disqualification or defect in the election, nomination or appointment of a person acting as the President or a member of a Board or of any such committee shall vitiate any act or proceeding of the Board or committee if the majority of the persons present at the time of the act being done or the proceeding being taken were duly qualified members thereof.

(3) Any document or minutes which purport to be the record of the proceedings of a Board or of any committee of a Board shall, if made and signed substantially in the manner prescribed for the making and signing of the record of such proceedings, be presumed to be a correct record of the proceedings of a duly convened meeting, held by a duly constituted Board or committee, as the case may be, whereof all the members were duly qualified.

CHAPTER IV.

SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

Unauthorised sale of spirituous liquor or intoxicating drug.

56. If within a cantonment, or within such limits adjoining a cantonment as the [2][Central Government] may, by notification in the [3][Official Gazette] define, any person not subject to military or air-force law or any person subject to military or air-force law otherwise than as a military officer or a soldier

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[1] Subs. by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925), for "Commanding Officer of the Cantonment".

[2] Subs. by the A. O. for "L. G."

[3] Subs. by the A. O. for "local official Gazette".

knowingly barters, sells or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor or intoxicating drug to or for the use of any soldier or follower or soldier's wife or minor child without the written permission of the [1][Officer Commanding the station] or of some person authorised by the [1][Officer Commanding the station] to grant such permission, he shall be punishable with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both

Unauthorised possession of spirituous liquor

57. If within a cantonment or within any limits defined under section 56,—

(a) any person subject to military or air force law otherwise than as a military officer or a soldier, or

(b) the wife or servant of any such person or of a soldier,

has in his or her possession, except on behalf of the [2][Central Government] or for the private use of a military officer, more than one quart of any spirituous liquor, other than fermented malt liquor, without the written permission of the [1][Officer Commanding the station] or of some person authorised by the [1][Officer Commanding the station] to grant such permission, he or she shall be punishable, in the case of a first offence, with fine which may extend to fifty rupees, and, in the case of a subsequent offence, with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees

Arrest of persons and seizure and confiscation of things for offences against the two last foregoing sections

58. (1) Any police officer or excise officer may, without an order from a Magistrate and without a warrant, arrest any person whom he finds committing an offence under section 56 or section 57, and may seize and detain any spirituous liquor or intoxicating drug in respect of which such an offence has been committed and any vessels or coverings in which the liquor or drug is contained

(2) Where a person accused of an offence under section 56 has been previously convicted of an offence under that section, an officer in charge of a police station may, with the written permission of a Magistrate, seize and detain any spirituous liquor or intoxicating drug within the cantonment or within any limits defined under that section which, at the time of the alleged commission of the subsequent offence, belonged to, or was in the possession of, such person

(3) The Court convicting a person of an offence under section 56 or section 57 may order the confiscation of the whole or any part of anything seized under sub section (1) or sub section (2)

(4) Subject to the provisions of Chapter XLIII of the Code of Criminal Procedure, 1898, anything, seized under sub section (1) or sub-section (2)

[1] Subs. by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925) for "Commanding Officer of the Cantonment

[2] Subs by the A. O for "Govt.

(2) When a Board is superseded by an order under sub-section (1)—

(a) all members of the Board shall, on such date as may be specified in the order, vacate their offices as such members but without prejudice to their eligibility for election or nomination under clause (c);

(b) during the supersession of the Board, all powers and duties conferred and imposed upon the Board by or under this Act or otherwise by law shall be exercised and performed by the [1][Officer Commanding the station] subject to such reservation, if any, as the [2][Central Government] may prescribe in this behalf; and

(c) before the expiry of the period of supersession elections shall be held and nominations made for the purpose of reconstituting the Board.

Validity of Proceedings.

Validity of proceedings, etc.

55. (1) No act or proceeding of a Board or of any committee of a Board shall be invalid by reason only of the existence of a vacancy in the Board or committee.

(2) No disqualification or defect in the election, nomination or appointment of a person acting as the President or a member of a Board or of any such committee shall vitiate any act or proceeding of the Board or committee if the majority of the persons present at the time of the act being done or the proceeding being taken were duly qualified members thereof.

(3) Any document or minutes which purport to be the record of the proceedings of a Board or of any committee of a Board shall, if made and signed substantially in the manner prescribed for the making and signing of the record of such proceedings, be presumed to be a correct record of the proceedings of a duly convened meeting, held by a duly constituted Board or committee, as the case may be, whereof all the members were duly qualified.

CHAPTER IV.

SPIRITUOUS LIQUORS AND INTOXICATING DRUGS.

Unauthorised sale of spirituous liquor or intoxicating drug.

56. If within a cantonment, or within such limits adjoining a cantonment as the [2][Central Government] may, by notification in the [3][Official Gazette] define, any person not subject to military or air-force law or any person subject to military or air-force law otherwise than as a military officer or a soldier

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[1] Subs. by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925), for "Commanding Officer of the Cantonment".

[2] Subs. by the A. O. for "L. G."

[3] Subs. by the A. O. for "local official Gazette".

(*Chapter IV.—Spirituous Liquors and Intoxicating Drugs.*)

knowingly barters, sells or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor or intoxicating drug to or for the use of any soldier or follower or soldier's wife or minor child without the written permission of the [1][Officer Commanding the station] or of some person authorised by the [1][Officer Commanding the station] to grant such permission, he shall be punishable with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Unauthorised possession of spirituous liquor.

57. If within a cantonment, or within any limits defined under section 56,—

(*a*) any person subject to military or air force law otherwise than as a military officer or a soldier, or

(*b*) the wife or servant of any such person or of a soldier,

has in his or her possession, except on behalf of the [2][Central Government] or for the private use of a military officer, more than one quart of any spirituous liquor, other than fermented malt liquor, without the written permission of the [1][Officer Commanding the station] or of some person authorised by the [1][Officer Commanding the station] to grant such permission, he or she shall be punishable, in the case of a first offence, with fine which may extend to fifty rupees, and, in the case of a subsequent offence, with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees.

Arrest of persons and seizure and confiscation of things for offences against the two last foregoing sections.

58. (*1*) Any police officer or excise officer may, without an order from a Magistrate and without a warrant, arrest any person whom he finds committing an offence under section 56 or section 57, and may seize and detain any spirituous liquor or intoxicating drug in respect of which such an offence has been committed and any vessels or coverings in which the liquor or drug is contained.

(*2*) Where a person accused of an offence under section 56 has been previously convicted of an offence under that section, an officer in charge of a police station may, with the written permission of a Magistrate, seize and detain any spirituous liquor or intoxicating drug within the cantonment or within any limits defined under that section which, at the time of the alleged commission of the subsequent offence, belonged to, or was in the possession of, such person.

(*3*) The Court convicting a person of an offence under section 56 or section 57 may order the confiscation of the whole or any part of anything seized under sub-section (*1*) or sub-section (*2*).

(*4*) Subject to the provisions of Chapter XLIII of the Code of Criminal
8 Procedure, 1898, anything, seized under sub-section (*1*) or sub-section (*2*)

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[1] Subs. by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925), for "Commanding Officer of the Cantonment".

[2] Subs. by the A. O. for "Govt."

and not confiscated under sub-section (3) shall be restored to the person from whom it was taken.

Saving of articles sold or supplied for medicinal purposes.

59. The foregoing provisions of this Chapter shall not apply to the sale or supply of any article in good faith for medicinal purposes by a medical practitioner, chemist or druggist authorised in this behalf by a general or special order of the [1][Officer Commanding the station].

CHAPTER V.

TAXATION.

Imposition of Taxation.

General power of taxation.

[2][**60.** (1) The Board may, with the previous sanction of the [3][Central Government], impose in any cantonment any tax which, under any enactment for the time being in force, may be imposed in any municipality in the Province wherein such cantonment is situated :

[4]* * * * * * * *

(2) Any tax imposed under this section shall take effect from the date of its notification in the [5][Official Gazette].]

Framing of preliminary proposals.

[6][**61.** When a resolution has been passed by the Board proposing to impose a tax under section 60, the Board shall in the manner prescribed in section 255 publish a notice specifying—

(a) the tax which it is proposed to impose;

(b) the persons or classes of persons to be made liable and the description of the property or other taxable thing or circumstance in respect of which they are to be made liable; and

(c) the rate at which the tax is to be levied.

Objections and disposal thereof.

62. (1) Any inhabitant of the cantonment may, within thirty days from the publication of the notice under section 61, submit to the Board an objection in writing to all or any of the proposals contained therein and the Board shall take any objection into consideration and pass orders thereon by special resolution.

(2) If the Board decides to modify its proposals or any of them, it shall re-publish the modified proposals in the manner provided by section 61 indicating that the proposals are in modification of the proposals previously published; and the provisions of sub-section (1) of this section shall apply to such modified proposals.

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[1] Subs. by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925), for "Commanding Officer of the Cantonment".

[2] Subs. by s. 23 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for the original section.

[3] Subs. by the A. O. for "L. G."

[4] The proviso to sub-section (1) was rep. by the A. O.

[5] Subs. by the A. O. for "local official Gazette".

[6] Ss. 61, 62 and 63 were subs. by s. 24 of Act 24 of 1936 for the original sections.

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(3) When the Board has finally settled the proposals, it shall submit them along with the objections, if any, made in connection therewith to the [1][Central Government] through the Officer Commanding in Chief, the Command

63. The [1][Central Government] may authorise the Board to impose the tax either in the original form or, if any objection has been submitted, in that form or any such modified form as it thinks fit] Imposition of tax

64. For the purposes of this Chapter "annual value" means— Definition of "annual value"

(a) in the case of railway stations, hotels, colleges, schools, hospitals, factories and any other buildings which a [2][Board] decides to assess under this clause, one twentieth of the sum obtained by adding the estimated present cost of erecting the building to the estimated value of the land appertaining thereto, and

(b) in the case of a building or land not assessed under clause (a), the gross annual rent for which such building (exclusive of furniture or machinery therein) or such land is actually let or, where the building or land is not let or in the opinion of the [2][Board] is let for a sum less than its fair letting value, might reasonably be expected to let from year to year

Provided that, where the annual value of any building is by reason of exceptional circumstances, in the opinion of the [2][Board], excessive if calculated in the aforesaid manner, the [2][Board] may fix the annual value at any less amount which appears to it to be just

65. (1) Save as otherwise expressly provided in the notification imposing the tax, every tax [3][assessed] on the annual value of buildings or lands or of both shall be leviable primarily upon the actual occupier of the property upon which the said tax is assessed, if he is the owner of the buildings or lands or holds them on a building or other lease [4][granted by or on behalf of the [5][Crown] or] the [2][Board] or on a building lease from any person Incidence of taxation

(2) In any other case, the tax shall be primarily leviable as follows, namely —

(a) if the property is let, upon the lessor,

(b) if the property is sub let, upon the superior lessor;

(c) if the property is unlet, upon the person in whom the right to let the same vests

(3) On failure to recover any sum due on account of such tax from the person primarily liable, there may be recovered from the occupier of any part of the buildings or lands in respect of which the tax is due such portion

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[1] Subs by the A O for "L. G "

[2] Subs by s 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "Cantonment Authority"

[3] Ins by s 7 of the Cantonments (Amendment) Act, 1927 (26 of 1927)

[4] Subs by s 25 of Act 24 of 1936 for ' from the Secretary of State in Council or from "

[5] Subs. by the A O for "Secretary of State in Council".

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of the sum due as bears to the whole amount due the same ratio which the rent annually payable by such occupier bears to the aggregate amount of rent so payable in respect of the whole of the said buildings or lands, or to the aggregate amount of the letting value thereof, if any, stated in the authenticated assessment list.

(*4*) An occupier who makes any payment for which he is not primarily liable under this section shall, in the absence of any contract to the contrary, be entitled to be reimbursed by the person primarily liable for the payment, and, if so entitled, may deduct the amount so paid from the amount of any rent from time to time becoming due from him to such person.

Assessment List.

Assessment list.

66. When a tax [1][assessed] on the annual value of buildings or lands or both is imposed, the [2][Board] shall cause an assessment list of all buildings or lands in the cantonment, or of both, as the case may be, to be prepared in such form as the [3][Central Government] may by rule prescribe.

Publication of assessment list.

67. When the assessment list has been prepared, the [2][Board] shall give public notice thereof, and of the place where the list or a copy thereof may be inspected, and every person claiming to be the owner, lessee or occupier of any property included in the list, and any authorised agent of such person, shall be at liberty to inspect the list and to make extracts therefrom free of charge.

Revision of assessment list.

68. (*1*) The [2][Board] shall, at the same time, give public notice of a date, not less than one month thereafter, when it will proceed to consider the valuations and assessments entered in the assessment list, and, in all cases in which any property is for the first time assessed or the assessment is increased, it shall also give written notice thereof to the owner and to any lessee or occupier of the property.

(*2*) Any objection to a valuation or assessment shall be made in writing to the [2][Board] before the date fixed in the notice, and shall state in what respect the valuation or assessment is disputed, and all objections so made shall be recorded in a register to be kept for the purpose by the [2][Board].

(*3*) The objections shall be inquired into and investigated, and the persons making them shall be allowed an opportunity of being heard either in person or by authorised agent, by an Assessment Committee appointed by the [2][Board].

(*4*) The Assessment Committee shall consist of not less than three persons, and, [4]* * * it shall not be necessary to appoint to the Assessment Committee any member [5][of the Board].

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[1] Ins. by s. 8 of the Cantonments (Amendment) Act, 1927 (26 of 1927).

[2] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "Cantonment Authority".

[3] Subs. by the A. O. for "L. G."

[4] The words "where there is a Board" were rep. by s. 26 of Act 24 of 1936.

[5] Subs. by s. 26, *ibid.*, for "thereof".

69. (*1*) When all objections made under section 68 have been disposed of, and the revision of the valuation and assessment has been completed, the assessment list shall be authenticated by the signature of the members of the Assessment Committee who shall at the same time, certify that they have considered all objections duly made and have amended the list so far as is required by their decisions on such objections. Authentication of assessment list.

(*2*) The assessment list so authenticated shall be deposited in the office of the [1][Board], and shall there be open, free of charge, during office hours to all owners, lessees and occupiers of property comprised therein or the authorised agents of such persons, and a public notice that it is so open shall forthwith be published.

70. Subject to such alterations as may thereafter be made in the assessment list under the provisions of this Chapter and to the result of any appeal made thereunder, the entries in the assessment list authenticated and deposited as provided in section 69 shall be accepted as conclusive evidence— Evidential value of assessment list.

(i) for the purpose of assessing any tax imposed under this Act, of the annual value or other valuation of all buildings and lands to which such entries respectively refer, and

(ii) for the purposes of any tax imposed on buildings or lands of the amount of each such tax leviable thereon during the year to which such list relates.

71. [2][(*1*) The Board may amend the assessment list at any time— Amendment of assessment list.

(*a*) by inserting or omitting the name of any person whose name ought to have been or ought to be inserted or omitted, or

(*b*) by inserting or omitting any property which ought to have been or ought to be inserted or omitted, or

(*c*) by altering the assessment on any property which has been erroneously valued or assessed through fraud, accident or mistake, whether on the part of the Board or of the Assessment Committee or of the assessee, or

(*d*) by revaluing or re-assessing any property the value of which has been increased, or

(*e*) in the case of a tax payable by an occupier, by changing the name of the occupier:

Provided that no person shall by reason of any such amendment become liable to pay any tax or increase of tax in respect of any period prior to the commencement of the year in which the assessment is made.]

[3][(*1a*) Before making any amendment under sub-section (*1*) the Board shall give to any person affected by the amendment notice of not less than one month that it proposes to make the amendment.]

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "Cantonment Authority".

[2] Subs. by s. 27, *ibid.*, for the original sub-section.

[3] Ins. by s. 27, *ibid.*

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(*2*) Any person interested in any such amendment may tender an objection to the [1][Board] in writing before the time fixed in the notice, and shall be allowed an opportunity of being heard in support of the same in person or by authorised agent.

Preparation of new assessment list.

72. The [1][Board] shall prepare a new assessment list at least once in every three years, and for this purpose the provisions of sections 66 to 71 shall apply in like manner as they apply for the purpose of the preparation of an assessment list for the first time.

Notice of transfers.

73. (*1*) Whenever the title of any person primarily liable for the payment of a tax on the annual value of any building or land to or over such building or land is transferred, the person whose title is transferred and the person to whom the same is transferred shall, within three months after the execution of the instrument of transfer or after its registration, if it is registered, or after the transfer is effected, if no instrument is executed, give notice of such transfer to the Executive Officer.

(*2*) In the event of the death of any person primarily liable as aforesaid, the person on whom the title of the deceased devolves shall give notice of such devolution to the Executive Officer within six months from the death of the deceased.

(*3*) The notice to be given under this section shall be in such form as the Executive Officer may direct, and the transferee or other person on whom the title devolves shall, if so required, be bound to produce before the Executive Officer any documents evidencing the transfer or devolution.

(*4*) Every person who makes a transfer as aforesaid without giving such notice to the Executive Officer shall continue liable for the payment of all taxes assessed on the property transferred until he gives notice or until the transfer has been recorded in the registers of the [1][Board], but nothing in this section shall be held to affect the liability of the transferee for the payment of the said tax.

[2][(*5*) The Executive Officer shall record every transfer on devolution of title notified to him under sub-section (*1*) or sub-section (*2*) in the assessment list and other tax registers of the Board.]

Notice of erection of buildings.

74. (*1*) If any building is erected or re-erected within the meaning of section 179, the owner shall give notice thereof to the Executive Officer within thirty days from the date of its completion or occupation, whichever is earlier.

(*2*) Any person failing to give the notice required by sub-section (*1*) shall be punishable with fine which may extend to fifty rupees or ten times the amount of the tax payable on the said building, as erected or re-erected, as the case may be, in respect of a period of three months, whichever is greater.

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "Cantonment Authority".
[2] Ins. by s. 28, *ibid.*

(*Chapter V.—Taxation*)

Remission and Refund.

75. If any building is wholly or partly demolished or destroyed or otherwise deprived of value, the [1][Board] may, on the application [2][in writing] of the owner [3][or occupier], remit or refund such portion of [4][any tax assessed on the annual value thereof] as it thinks fit

Demolition, etc., of buildings

76. In a cantonment [5]* * * * when any building or land has remained vacant and unproductive of rent for [6][sixty] or more consecutive days [7]* * * the [1][Board] shall remit or refund, as the case may be, such portion of [8][any tax assessed on the annual value thereof [9]* *] [9]* * * as may be proportionate to the number of days during which the said building or land has remained vacant and unproductive of rent

Remission of tax

77. For the purpose of obtaining a partial remission or refund of tax, the owner of a building composed of separate tenements may request the [1][Board] at the time of the assessment of the building, to enter in the assessment list, in addition to the annual value of the whole building, a note recording in detail the annual value of each separate tenement When any tenement, the annual value of which has been thus separately recorded, has remained vacant and unproductive of rent for [6][sixty] or more consecutive days [7]* * * such portion of [10][any tax assessed on the annual value of the whole building [9]* * *] shall be remitted or refunded as would have been remitted or refunded if the tenement had been separately assessed

Power to require entry in assessment list of details of buildings

[11][77A.] [12][No remission or refund under [13]* * section 76 or section 77] shall be made unless notice in writing of the [14][fact that the building, land or tenement has become vacant and unproductive of rent] has been given to the [1][Board], and no remission or refund shall take effect in respect of any period commencing more than fifteen days before the delivery of such notice.

Notice to be given of the circumstances in which remission or refund is claimed

78. (*1*) For the purposes of sections 76 and 77 no building, tenement or land shall be deemed vacant if maintained as a pleasure resort or town or

What buildings, etc., are to be deemed vacant

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[1] Subs by s 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "Cantonment Authority"

[2] Ins by s 4 of the Cantonments (Amendment) Act, 1931 (7 of 1931)

[3] Ins by s 29 of Act 24 of 1936

[4] Subs by s 9 of the Cantonments (Amendment) Act, 1927 (26 of 1927), for "the tax payable thereon

[5] The words 'other than a hill cantonment' rep by s 30 of Act 24 of 1936

[6] Subs by s 30 *ibid*, for "ninety"

[7] The words during any year rep by s 30, *ibid*

[8] Subs by s 10 of Act 26 of 1927 for "the tax payable thereon"

[9] The words "and payable in respect of that year rep by s 30 of Act 24 of 1936

[10] Subs by s 11 of Act 26 of 1927 for 'the tax payable in respect of that year on the

as s 77A by s. 11, *ibid*
[illegible] that no such remission"
by s 5 of Act 7 of 1931

[14] Subs by s 5, *ibid*, for [illegible] circumstances in which it is claimed"

(*Chapter V.—Taxation.*)

country house, or be deemed unproductive of rent if let to a tenant who has a continuing right of occupation thereof, whether he is in actual occupation or not.

(*2*) The burden of proving all facts entitling any person to claim relief under section 75, or section 76, or section 77, shall be upon him.

Notice to be given of every occupation of vacant building or house.

79. (*1*) The owner of any building, tenement or land in respect of which a remission or refund of tax has been given under section 76 or section 77 shall give notice of the re-occupation of such building, [1][tenement] or land within fifteen days of such re-occupation.

(*2*) Any owner failing to give the notice required by sub-section (*1*) shall be punishable with fine which shall not be less than twice the amount of the tax payable on such building, tenement or land in respect of the period during which it has been re-occupied and which may extend to fifty rupees, or to ten times the amount of the said tax, whichever sum is greater.

Charge on Immoveable Property.

Tax on buildings and land to be a charge thereon.

80. A tax assessed on the annual value of any building or land shall, subject to the prior payment of the land-revenue, if any, due to the Government thereon, be a first charge upon the building or land.

Octroi, Terminal Tax and Toll.

Inspection of imported goods, etc.

81. Every person bringing or receiving any goods, vehicles or animals within the limits of any cantonment in which octroi or terminal tax or toll is leviable, shall, when so required by an officer duly authorised by the [2][Board] in this behalf, so far as may be necessary for ascertaining the amount of tax chargeable—

(*a*) permit that officer to inspect, examine or weigh such goods, vehicles or animals ; and

(*b*) communicate to that officer any information, and exhibit to him any bill, invoice or document of a like nature, which such person may possess relating to such goods, vehicles or animals.

Evasion of octroi or terminal tax.

82. (*1*) Any person who takes or attempts to take past any octroi station or any other place appointed within a cantonment for the collection of octroi, terminal tax or toll any goods, vehicles or animals, on account of which octroi, terminal tax or toll is leviable and thereby evades, or attempts to evade, the payment of such octroi, terminal tax or toll, and any person who abets any such evasion or attempt at evasion, shall be punishable with fine which may extend either to ten times the value of such octroi, terminal tax or toll, or to fifty rupees, whichever is greater and which shall not be less than twice the value of such octroi, terminal tax or toll, as the case may be.

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[1] Ins. by s. 2 and Sch. I of the Repealing and Amending Act, 1934 (24 of 1934).

[2] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "Cantonment Authority".

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(2) In case of non-payment of any octroi or terminal tax or toll on demand, the officer empowered to collect the same may seize any goods, vehicles or animals on which the octroi, terminal tax or toll is chargeable or any part or number thereof which is of sufficient value to satisfy the demand [1][and shall give a receipt specifying the items seized]

(3) The [2][Board], after the lapse of five days from the seizure, and after the issue of a notice in writing to the person in whose possession the goods, vehicles or animals were at the time of seizure, fixing the time and place of sale, may cause the property so seized, or so much thereof as may be necessary, to be sold by auction to satisfy the demand and any expenses occasioned by the seizure, custody and sale thereof, unless the demand and expenses are in the meantime paid

Provided that the Executive Officer may, in any case, order that any article of a perishable nature which cannot be kept for five days without serious risk of damage, or which cannot be kept save at a cost which, together with the amount of octroi, terminal tax or toll, is likely to exceed its value, shall be sold after the lapse of such shorter time as he may, having regard to the nature of the article, think proper

(4) If, at any time before the sale has begun, the person whose property has been seized tenders to the Executive Officer the amount of all expenses incurred and of the octroi, terminal tax or toll, the Executive Officer shall release the property seized

(5) The surplus, if any, of the sale proceeds shall be credited to the cantonment fund, and shall, on application made to the [2][Board] within one year after the sale, be paid to the person in whose possession the property was at the time of seizure, and, if no such application is made, shall be the property of the [2][Board]

83. It shall be lawful for the [2][Board], with the previous sanction of the [3][Officer Commanding in Chief, the Command] to lease the collection of any octroi, terminal tax or toll for any period not exceeding one year, and the lessee and all persons employed by him in the management and collection of the octroi, terminal tax or toll shall, in respect thereof,— Lease of octroi, terminal tax or toll

(a) be bound by any orders made by the [2][Board] for their guidance ;

(b) have such powers exercisable by officers or servants of the [2][Board] under this Act as the [2][Board] may confer upon them, and

(c) be entitled to the same remedies and be subject to the same responsibilities as if they were employed by the [2][Board] for the management and collection of the octroi, terminal tax or toll, as the case may be

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[1] Ins. by s 31 of the Cantonments (Amendment) Act, 1936 (24 of 1936)

[2] Subs by s 69, *ibid*, for "Cantonment Authority"

[3] Subs by s 2 of the Cantonments (Amendment) Act, 1926 (35 of 1926), for "Officer Commanding the District".

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Distress.

93. (*1*) It shall be lawful for any servant of the [1][Board] to whom a warrant issued under section 92 is addressed to distrain, wherever it may be found [2][in the cantonment], any moveable property of [2][or standing timber, growing crops or grass belonging to] the person therein named as defaulter, subject to the following conditions, exceptions and exemptions, namely :—

(*a*) the following property shall not be distrained :—

(i) the necessary wearing apparel and bedding of the defaulter, his wife and children,

(ii) tools of artisans,

(iii) books of account, or

(iv) when the defaulter is an agriculturist, his implements of husbandry, seed-grain, and such cattle as may be necessary to enable the defaulter to earn his livelihood ;

(*b*) the distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant, and if any property has been distrained which, in the opinion of the Executive Officer, should not have been distrained, it shall forthwith be returned.

(*2*) The person charged with the execution of a warrant of distress shall forthwith make an inventory of the property which he seizes under such warrant, and shall, at the same time, give a written notice in the form set forth in Schedule III to the person in possession thereof at the time of seizure that the said property will be sold as therein mentioned.

Disposal of distrained property.

94. (*1*) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody is, when added to the amount to be recovered, likely to exceed its value, the Executive Officer shall give notice to the person in whose possession the property was at the time of seizure that it will be sold at once, and shall sell it accordingly by public auction unless the amount mentioned in the warrant is forthwith paid.

(*2*) If the warrant is not in the meantime suspended by the Executive Officer, or discharged, th[illegible] seized s[illegible] after the expiry of the period named in the notice se[illegible] sub-sec[illegible] f section 93, be sold by public auction by order [illegible]e O[illegible]

(*3*) The surplus of th[illegible] [illegible]hwith be credited to the cantonment fund, [illegible] [illegible]ven [illegible] he same time to the person from [illegible] [illegible] if the sa[illegible] [illegible]d by written [illegible]om the [illegible] notice, a [illegible] y sur[illegible] within c[illegible] [1][Bo[illegible]

[1] S[illegible] Authori[illegible]

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(*4*) For every distraint made under this Chapter a fee of such amount, not exceeding one rupee, as shall in each case be fixed by the Executive Officer shall be charged, and the said fee shall be included in the costs of recovery.

Recovery from a person about to leave cantonment.

95. (*1*) If the Executive Officer has reason to believe that any person from whom any sum is due [1][or is about to become due] on account of any tax is about to remove from the cantonment, he may direct the immediate payment by such person of the sum so due or about to become due, and cause a bill for the same to be served on such person.

(*2*) If, on the service of such bill, such person does not forthwith pay the sum so due or about to become due, the amount shall be leviable by distress and sale in the manner hereinbefore provided in this Chapter, except that it shall not be necessary to serve upon the defaulter any notice of demand and the warrant for distress and sale may be issued and executed without any delay.

Power to institute suit for recovery.

96. Instead of proceeding against a defaulter by distress and sale as hereinbefore provided in this Chapter, or after a defaulter has been so proceeded against unsuccessfuly or with only partial success, any sum due or the balance of any sum due, as the case may be, from such defaulter on account of a tax may be recovered from him by a suit in any Court of competent jurisdiction.

Special Provisions relating to Taxation

Power to prohibit or exempt from taxation.

97. Every [2][Board] shall be deemed to be a Municipal Committee for the purposes of the Municipal Taxation Act, 1881.

Power to make special provision for conservancy in certain cases.

98. A [2][Board] may make special provision for the cleansing of any factory, hotel, club or group of buildings or lands used for any one purpose and under one management, and may fix a special rate and the dates and other conditions for periodical payment thereof, which shall be determined by a written agreement with the person liable for the payment of the conservancy or scavenging tax in respect of such factory, hotel, club or group of buildings or lands :

Provided that, in fixing the amount, proper regard shall be had to the probable cost to the [2][Board] of the services to be rendered.

Exemption in the case of buildings.

99. (*1*) When, in pursuance of section 98, a [2][Board] has fixed a special rate for the cleansing of any factory, hotel, club or group of buildings or lands, such premises shall be exempted from the payment of any conservancy or scavenging tax imposed in the cantonment.

(*2*) The following buildings and lands shall be exempt from any tax on property, namely :—

(*a*) places set apart for public worship and either actually so used or used for no other purpose ;

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[1] Ins. by s. 2 and Sch. I of the Repealing and Amending Act, 1930 (8 of 1930).

[2] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "Cantonment Authority".

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(*b*) buildings used for educational purposes and public libraries, play-grounds and dharmsalas which are open to the public and from which no income is derived;

(*c*) hospitals and dispensaries maintained wholly by charitable contributions;

(*d*) burning and burial grounds, not being the property of [1][the Crown] or a [2][Board], which are controlled under the provisions of this Act;

(*e*) buildings or lands vested in a [2][Board]; and

(*f*) any buildings or lands, used or acquired for the public service or for any public purpose, which are the property of [3][the Crown] or in the occupation of [4][the Central or any Provincial Government.]

General power of exemption.

[5][**99A.** The [6][Central Government] may, by notification in the [7][Official Gazette], exempt, either wholly or in part from the payment of any tax imposed under this Act, any person or class of persons or any property or goods or class of property or goods [8]* * *.]

Exemption of poor persons.

100. A [2][Board] may exempt, for a period not exceeding one year at a time from the payment of any tax or any portion of a tax imposed under this Act, any person who is in its opinion by reason of poverty unable to pay the same.

Composition.

101. (*1*) A [2][Board] may, with the previous sanction of the [9][Officer Commanding-in-Chief, the Command,] allow any person to compound for any tax.

(*2*) Every sum due by reason of the composition of a tax under sub-section (*1*) shall be recoverable as if it were a tax.

Irrecoverable debts.

102. A [2][Board] may write off any sum due on account of any tax [10][or rate] or of the costs of recovering any tax [10][or rate] if such sum is, in its opinion, irrecoverable:

[10][Provided that, where the sum written off in favour of any one person exceeds fifty rupees, the sanction of the Officer Commanding-in-Chief, the Command, shall be first obtained.]

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[1] Subs. by the A. O. for "Govt."

[2] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "Cantonment Authority".

[3] Ins. by the A. O.

[4] Subs. by the A. O. for "the Govt."

[5] Ins. by s. 7 of the Cantonments (Amendment) Act, 1926 (35 of 1926).

[6] Subs. by the A. O. for "L. G."

[7] Subs. by the A. O. for "local official Gazette".

[8] The words "belonging to the Secretary of State for India in Council" rep. by s. 6 of the Cantonments (Amendment) Act, 1931 (7 of 1931).

[9] Subs. by s. 2 of Act 35 of 1926 for "Officer Commanding the District".

[10] Ins. by s. 34 of Act 24 of 1936.

103. (*1*) The Executive Officer may, by written notice, call upon any inhabitant of the cantonment to furnish such information as may be necessary for the purpose of ascertaining— Obligation to disclose liability.

(*a*) whether such inhabitant is liable to pay any tax imposed under this Act,

(*b*) at what amount he should be assessed, or

(*c*) the annual value of the building or land which he occupies and the name and address of the owner or lessee thereof.

(*2*) If any person, when called upon under sub-section (*1*) to furnish information, neglects to furnish it or furnishes information which is not true to the best of his knowledge or belief, he shall be punishable with fine which may extend to one hundred rupees.

104. No assessment and no charge or demand on account of any tax or fee shall be impeached or affected by reason only of any mistake in the name of any person liable to pay such tax or fee, or in the description of any property or thing, or any mistake in the amount of the assessment, charge or demand, if the directions contained in this Act and the rules and bye-laws made thereunder have in substance and effect been complied with, but any person who sustains any special damage by reason of any such mistake shall be entitled to recover compensation for the same by suit in a Court of competent jurisdiction. Immaterial error not to affect liability.

105. No distress levied under this Chapter shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account only of any defect of form in the notice of demand, warrant of distress or other proceeding relating thereto, nor shall any such person be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but any person who sustains any special damage by reason of any such irregularity shall be entitled to recover compensation for the same by suit in a Court of competent jurisdiction. Distraint not to be invalid by reason of immaterial defect.

CHAPTER VI

Cantonment Fund and Property

Cantonment Fund

106. There shall be formed for every cantonment a cantonment fund, and there shall be placed to the credit thereof the following sums, namely:— Cantonment fund.

(*a*) the balance, if any, of the cantonment fund formed for the cantonment under the Cantonments Act, 1910,

(*b*) all sums received by or on behalf of the [1][Board],

[2]* * * * * * *

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), *for* "Cantonment Authority".

[2] The word "and" and cl. (*c*) were rep. by the A. O. *See however*, para. 4 of the India and Burma (Transitory Provisions) Order, 1937.

(Chapter VI.—Cantonment Fund and Property.)

Custody of cantonment fund.

107. *(1)* Where in or near a cantonment there is a Government treasury or sub-treasury, or a branch of the Imperial Bank of India, the cantonment fund shall be kept in such treasury, sub-treasury or bank, as the case may be.

(2) Where there is no such treasury, sub-treasury or bank, the cantonment fund may be deposited with any bank to which the Government treasury business has been entrusted, and, in the absence of such a bank, with any banker or person acting as a banker who has given such security for the safe custody of the fund and the payment on demand of the funds so deposited as the [1][Central Government] may in each case direct.

[2][*(3)* A [3][Board] may, from time to time, with the previous sanction of the [4][Officer Commanding-in-Chief, the Command], invest any portion of its cantonment fund in securities of the [5][Central Government] or in such other securities, including fixed deposits in banks, as the [1][Central Government] may approve in this behalf, and may dispose of such investments or vary them for others of a like nature.]

(4) The income resulting from any fixed deposit or from any such security as is referred to in sub-section *(3)* or from the proceeds of the sale of any such security shall be credited to the cantonment fund.

Property.

Property.

108. Subject to any special reservation made by the [6][Central Government], [7]* * *, all property of the nature hereinafter in this section specified which has been acquired or provided or is maintained by a [3][Board] shall vest in and belong to that [3][Board] and shall be under its direction, management and control, that is to say,—

(a) all markets, slaughter-houses, manure and night-soil depôts, and buildings of every description;

(b) all water-works for the supply, storage or distribution of water for public purposes and all bridges, buildings, engines, materials, and things connected therewith or appertaining thereto;

(c) all sewers, drains, culverts and water-courses, and all works, materials and things appertaining thereto;

(d) all dust, dirt, dung, ashes, refuse, animal matter, filth and rubbish of every kind, and dead bodies of animals collected by the [3][Board] from the streets, houses, privies, sewers, cesspools or elsewhere, or deposited in places appointed by the [3][Board] for such purpose;

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1 Subs. by the A. O. for "L. G."
2 Subs. by s. 12 of the Cantonments (Amendment) Act, 1927 (26 of 1927), for the original sub-section.
3 Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "Cantonment Authority".
4 Subs. by s. 35, *ibid.*, for "L. G."
5 Subs. by the A. O. for "G. of I."
6 Subs. by the A. O. for "G. G. in C."
7 The words "or the L. G." rep. by the A. O.

(Chapter VI.—Cantonment Fund and Property.)

(*e*) all lamps and lamp-posts and apparatus connected therewith or appertaining thereto ;

(*f*) all land or other property transferred to the [1][Board] [2][by the Central or a Provincial Government], or by gift, purchase or otherwise for local public purposes ; and

(*g*) all streets and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements, and things existing on or appertaining to streets.

Application of cantonment fund and property.

109. The cantonment fund and all property vested in a [1][Board] shall be applied for the purposes, whether express or implied, for which, by or under this Act or any other law for the time being in force, powers are conferred or duties or obligations are imposed upon the [1][Board] :

Provided that the [1][Board] shall not incur any expenditure for acquiring or renting land beyond the limits of the cantonment or for constructing any work beyond such limits except—

(*a*) with the sanction of the [3][Central Government], and

(*b*) on such terms and conditions as the [3][Central Government] may impose :

Provided, further, that priority shall be given in the order hereinafter set forth to the following liabilities and obligations of a [1][Board], that is to say,—

(*a*) to the liabilities and obligations arising from a trust legally imposed upon or accepted by the [1][Board] ;

(*b*) to the repayment of, and the payment of interest on, any loan incurred under the provisions of the Local Authorities Loans Act, 1914 ;

(*c*) to the payment of establishment charges ;

(*d*) to the payment of such expenses on account of pauper lunatics sent from the cantonment to public lunatic asylums and mental hospitals as the [3][Central Government] directs the [1][Board] to pay ; and

(*e*) to the payment of any sum the payment of which is expressly required by the provisions of this Act or any rule or bye-law made thereunder.

110. When there is any hindrance to the permanent or temporary acquisition upon payment of any land required by a [1][Board] for the purposes of this Act, the [3][Central Government] may, at the request of the

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (21 of 1936), for "Cantonment Authority".

[2] Subs. by the A. O. for "His Majesty".

[3] Subs. by the A. O. for "L. G."

[1][Board], [2][procure the acquisition thereof] under the provisions of the Land Acquisition Act, 1894, and on payment by the [1][Board] of the compensation awarded under that Act and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the [1][Board]. I of

Power to make rules regarding cantonment fund and property.

111. The [3][Central Government] may make rules[4] consistent with this Act to provide for all or any of the following matters, namely :—

(*a*) the conditions on which property may be acquired by [5][Boards] or on which property vested in a [1][Board] may be transferred by sale, mortgage, lease, exchange or otherwise ; and

(*b*) any other matter relating to the cantonment fund or cantonment property in respect of which no provision or insufficient provision is made by or under this Act, and provision is, in the opinion of the [3][Central Government], necessary.

CHAPTER VII.

CONTRACTS.

Contracts by whom to be executed.

112. Subject to the provisions of this Chapter, every [1][Board] shall be competent to enter into and perform any contract necessary for the purposes of this Act.

Sanction.

113. (*1*) Every contract—

(*a*) for which budget provision does not exist, or

(*b*) which involves a value or amount exceeding one hundred rupees,

shall require the sanction of the [1][Board].

(*2*) Every contract other than a contract such as is referred to in sub-section (*1*) shall be sanctioned by the [1][Board] or by the Executive Officer on behalf of the [1][Board].

Execution of contracts.

114. (*1*) Every contract made by or on behalf of a [1][Board] the value or amount of which exceeds fifty rupees, shall be in writing, and every such contract shall, [6]* * * be signed by two members, of whom the President or the Vice-President shall be one, and be countersigned by the Executive Officer and be sealed with the common seal of the Board,[7]* * * :

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[1] Subs. by s 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for " Cantonment Authority ".

[2] Subs. by the A. O. for " proceed to acquire it".

[3] Subs. by the A. O. for " G. G. in C."

[4] For the Cantonment Property Rules, 1925, made under this section, *see* Gen. R. & O., Vol. V, p. 467.

[5] Subs. by s. 69 of Act 24 of 1936 for " Cantonment Authorities".

[6] The words " where there is a Board " rep. by s. 36, *ibid*.

[7] The words " or, where there is no Board, be signed by the Officer Commanding the station and be sealed with the official seal of the Cantonment Authority " rep. by s. 36, *ibid*.

Provided that [1]* * * the Executive Officer may in a case of urgency, with the previous sanction of the President of the Board, execute on behalf of the Board any contract the value or amount of which does not exceed two hundred rupees

(2) Where an Executive Officer executes a contract on behalf of a Board under sub-section (1), he shall submit a report of his action and of the reasons therefor to the Board at its next meeting

115. If any contract is executed by or on behalf of a [2][Board] otherwise than in conformity with the provisions of this Chapter, it shall not be binding on the [2][Board] **Contracts improperly executed not to be binding on a Board**

CHAPTER VIII

DUTIES AND DISCRETIONARY FUNCTIONS OF [3][BOARDS]

116. It shall be the duty of every [2][Board], so far as the funds at its disposal permit, to make reasonable provision within the cantonment for— **Duties of Board**

(a) lighting streets and other public places,

(b) watering streets and other public places,

(c) cleansing streets, public places and drains, abating nuisances and removing noxious vegetation

(d) regulating offensive, dangerous or obnoxious trades, callings and practices

(e) removing, on the ground of public safety, health or convenience, undesirable obstructions and projections in streets and other public places,

(f) securing or removing dangerous buildings and places,

(g) acquiring, maintaining, changing and regulating places for the disposal of the dead,

(h) constructing, altering and maintaining streets, culverts, markets, slaughter houses, latrines, privies, urinals, drains, drainage works and sewerage works,

(i) planting and maintaining trees on roadsides and other public places,

(j) providing or arranging for a sufficient supply of pure and wholesome water, where such supply does not exist, guarding from pollution water used for human consumption, and preventing polluted water from being so used,

(k) registering births and deaths,

(l) establishing and maintaining a system of public vaccination,

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[1] The words ' where there is a Board ' rep by s 36 of the Cantonments (Amendment) Act 1936 (24 of 1936)

[2] Subs by s 69, ibid, for " Cantonment Authority "

[3] Subs by s 69, ibid, for " Cantonment Authorities ".

(*Chapter VIII.—Duties and Discretionary Functions of Boards.*)

(*m*) establishing and maintaining or supporting public hospitals and dispensaries, and providing public medical relief ;

(*n*) establishing and maintaining [1][or assisting] primary schools ;

(*o*) rendering assistance in extinguishing fires, and protecting life and property when fires occur ;

(*p*) maintaining and developing the value of property vested in, or entrusted to the management of, the [2][Board] ; and

(*q*) fulfilling any other obligation imposed upon it by or under this Act or any other law for the time being in force.

Power to manage property.

[3][**116A.** A [2][Board] may, subject to any conditions imposed by the [4][Central Government], manage any property entrusted to its management by the [4][Central Government] on such terms as to the sharing of rents and profits accruing from such property as may be determined by rule made under section 280.]

Discretionary functions of Board.

117. A [2][Board] may, within the cantonment, make provision for—

(*a*) laying out in areas, whether previously built upon or not, new streets, and acquiring land for that purpose and for the construction of buildings, and compounds of buildings, to abut on such streets ;

(*b*) constructing, establishing or maintaining public parks, gardens, offices, dairies, bathing or washing places, drinking fountains, tanks, wells and other works of public utility ;

(*c*) reclaiming unhealthy localities ;

(*d*) furthering educational objects by measures other than the establishment and maintenance of primary schools ;

(*e*) taking a census and granting rewards for information which may tend to secure the correct registration of vital statistics ;

(*f*) making a survey ;

(*g*) giving relief on the occurrence of local epidemics by the establishment or maintenance of relief works or otherwise ;

(*h*) securing or assisting to secure suitable places for the carrying on of any offensive, dangerous or obnoxious trade, calling or occupation ;

(*i*) establishing and maintaining a farm or other place for the disposal of sewage ;

(*j*) constructing, subsidising or guaranteeing tramways or other means of locomotion, and electric lighting or electric power works ;

(*k*) adopting any measure, other than a measure specified in section 116 or in the foregoing provisions of this section, likely to promote the safety, health or convenience of the inhabitants of the cantonment ; or

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[1] Ins. by s. 37 of the Cantonments (Amendment) Act 1936 (24 of 1936).
[2] Subs. by s. 69, *ibid.*, for " Cantonment Authority ".
[3] Ins. by s. 6 of the Cantonments (Amendment) Act, 1925 (7 of 1925).
[4] Subs. by the A. O. for " G. G. in C."

(*l*) the doing of anything on which expenditure is declared by the [1][Central Government], or by the [2][Board], with the sanction of the [1][Central Government], to be an appropriate charge on the cantonment fund

[3][**117A.** A [2][Board] may make provision for educational objects outside the cantonment if it is satisfied that the interests of the residents of the cantonment will be served thereby] Power of expenditure for educational purposes outside the cantonment

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CHAPTER IX

PUBLIC SAFETY AND SUPPRESSION OF NUISANCES

General Nuisances

118. (*1*) Whoever— Penalty for causing nuisances

(*a*) in any street or other public place within a cantonment,—

(i) is drunk and disorderly or drunk and incapable of taking care of himself, or

(ii) uses any threatening, abusive or insulting words or behaves in a threatening or insulting manner with intent to provoke a breach of the peace, or whereby a breach of the peace is likely to be occasioned, or

(iii) eases himself, or wilfully or indecently exposes his person, or

(iv) loiters, or begs importunately, for alms, or

(v) exposes or exhibits, with the object of exciting charity, any deformity or disease or any offensive sore or wound, or

(vi) carries meat exposed to public view, or

(vii) is found gaming, or

(viii) pickets animals, or collects carts, or

(ix) being engaged in the removal of night-soil or other offensive matter or rubbish, wilfully or negligently permits any portion thereof to spill or fall, or neglects to sweep away or otherwise effectually to remove any portion thereof which may spill or fall in such street or place, or

(x) without proper authority affixes upon any building, monument, post, wall, fence, tree or other thing, any bill, notice or other document, or

(xi) without proper authority defaces or writes upon or otherwise marks any building, monument, post, wall, fence, tree or other thing, or

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[1] Subs by the A O for "I G

[2] Subs by s 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "Cantonment Authority"

[3] Ins by s 8 of the Cantonments (Amendment) Act, 1926 (35 of 1926)

(*Chapter IX.—Public Safety and Suppression of Nuisances.*)

(xii) without proper authority removes, destroys, defaces or otherwise obliterates any notice or other document put up or exhibited under this Act ; or

(xiii) without proper authority displaces, damages, or makes any alteration in, or otherwise interferes with, the pavement, gutter, stormwater-drain, flags or other materials of any such street, or any lamp, bracket, direction-post, hydrant or water-pipe maintained by the [1][Board] in any such street or public place, or extinguishes a public light ; or

(xiv) carries any corpse not decently covered or without taking due precautions to prevent risk of infection or injury to the public health or annoyance to passers-by or to persons dwelling in the neighbourhood ; or

(xv) carries night-soil or other offensive matter or rubbish at any hour prohibited by the [1][Board] by public notice, or in any pattern of cart or receptacle which has not been approved for the purpose by the [1][Board], or fails to close such cart or receptacle when in use ; or

(*b*) carries night-soil or other offensive matter or rubbish along any route in contravention of any prohibition made in this behalf by the [1][Board] by public notice ; or

(*c*) deposits, or causes or permits to be deposited, earth or materials of any description, or any offensive matter or rubbish, in any place not intended for the purpose in any street or other public place or waste or unoccupied land under the management of the [1] [Board] ; or

(*d*) having charge of a corpse fails to bury, burn or otherwise lawfully dispose of the same within twenty-four hours after death ; or

(*e*) makes any grave or buries or burns any corpse in any place not set apart for such purpose ; or

(*f*) keeps or uses, or knowingly permits to be kept or used, any place as a common gaming house, or assists in conducting the business of any common gaming house ; or

(*g*) at any time or place at which the same has been prohibited by the [1][Board] by public or special notice, beats a drum or tom-tom, or blows a horn or trumpet, or beats any utensil, or sounds any brass or other instrument, or plays any music ; or

(*h*) disturbs the public peace or order by singing, screaming or shouting; or

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for " Cantonment Authority ".

(i) lets loose any animal so as to cause, or negligently allows any animal to cause, injury, danger, alarm or annoyance to any person, or

(j) being the occupier of any building or land in or upon which an animal dies, neglects within three hours of the death of the animal, or, if the death occurs at night, within three hours after sunrise, either—

(i) to report the occurrence to the Executive Officer or to an officer, if any, appointed by him in this behalf with a view to securing the removal and disposal of the carcase by the public conservancy establishment, or

(ii) to remove and dispose of the carcase in accordance with any general directions given by the [1][Board] by public notice or any special directions given by the Executive Officer on receipt of such report as aforesaid, or

(k) save with the written permission of the [1][Board] and in such manner as it may authorise, stores or uses night soil, manure, rubbish or any other substance emitting an offensive smell, or

(l) uses or permits to be used as a latrine any place not intended for that purpose,

shall be punishable with fine which may extend to fifty rupees

(2) Whoever does not take reasonable means to prevent any child under the age of twelve years being in his charge from easing himself in any street or other public place within the cantonment shall be punishable with fine which may extend to twenty five rupees

(3) The owner or keeper of any animal found picketed or straying without a keep in a street or other public place in a cantonment shall be punishable with fine which may extend to twenty rupees

(4) Any animal found picketed as aforesaid may be removed by any officer or servant of the [1][Board] or by any police officer to a pound as if the animal had been found straying

Dogs

119. (*1*) A [1][Board] may make bye laws to provide for the registration of all dogs kept within the cantonment — Registration and control of dogs

(2) Such bye laws shall—

(a) require the registration, by the Officer Commanding each military unit, of all dogs kept in the lines occupied by that unit,

(b) require that every registered dog shall wear a collar to which shall be attached a metal token to be issued by the registration authority, and fix the fee payable for the issue thereof,

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[1] Subs by s 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority"

(Chapter IX.—Public Safety and Suppression of Nuisances.)

(*c*) require that any dog which has not been registered or which is not wearing such token shall, if found in any public place, be detained at a place set apart for the purpose ; and

(*d*) fix the fee which shall be charged for such detention and provide that any such dog shall be liable to be destroyed or otherwise disposed of unless it is claimed and the fee in respect thereof is paid within one week ;

and may provide for such other matters as the [1][Board] thinks fit.

(*3*) A [1][Board] may—

(*a*) cause to be destroyed, or to be confined for such period as that Authority[2] may direct, any dog or other animal which is, or is reasonably suspected to be, suffering from rabies, or which has been bitten by any dog or other animal suffering or suspected to be suffering from rabies ;

(*b*) by public notice direct that, after such date as may be specified in the notice, dogs which are without collars or without marks distinguishing them as private property and are found straying on the streets or beyond the enclosures of the houses of their owners, if any, may be destroyed, and cause them to be destroyed accordingly.

(*4*) No damages shall be payable in respect of any dog or other animal destroyed or otherwise disposed of under this section.

(*5*) Whoever, being the owner or person in charge of any dog, neglects to restrain it so that it shall not be at large in any street without being muzzled and without being secured by a chain lead in any case in which—

(*a*) he knows that the dog is likely to annoy or intimidate any person, or

(*b*) the [1][Board] has, by public notice during the prevalence of rabies, directed that dogs shall not be at large without muzzles and chain leads,

shall be punishable with fine which may extend to one hundred rupees.

(*6*) Whoever in a cantonment—

(*a*) allows any ferocious dog which belongs to him or is in his charge to be at large without being muzzled, or

(*b*) sets on or urges any dog or other animal to attack, worry or intimidate any person, or

(*c*) knowing or having reason to believe that any dog or animal belonging to him or in his charge has been bitten by an animal suffering or reasonably suspected to be suffering from rabies, neglects to give immediate information of the fact to the Executive Officer or gives information which is false,

shall be punishable with fine which may extend to two hundred rupees.

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[1] *Subs. by s.* 69 *of the Cantonments (Amendment) Act,* 1936 (24 of 1936) for " Cantonment Authority ".

[2] *Sic.* The reference is obviously to the Board.

(Chapter IX.—Public Safety and Suppression of Nuisances.)

Traffic.

120. Whoever in driving, leading or propelling a vehicle along a street fails, except in a case of actual necessity,— Rule of the road.

(*a*) to keep to the left when passing a vehicle coming from the opposite direction, or

(*b*) to keep to the right when passing a vehicle going in the same direction as himself,

shall be punishable with fine which may extend to fifty rupees.

Prevention of Fire, etc.

121. (*1*) A [1][Board] may, by public notice, direct that within such limits in the cantonment as may be specified in the notice, the roofs and external walls of huts or other buildings shall not, without the permission in writing of the [1][Board] be made or renewed of grass, mats, leaves or other inflammable materials, and may, by notice in writing, require any person who has disobeyed any such direction as aforesaid to remove or alter the roofs or walls so made or renewed. Use of inflammable materials for building purposes.

(*2*) A [1][Board] may, by notice in writing, require the owner of any building in the cantonment which has an external roof or wall made of any such material as aforesaid to remove such roof or wall within such time as may be specified in the notice, notwithstanding that a public notice under sub-section (*1*) has not been issued or that such roof or wall was made with the consent of the [1][Board] or before the issue of such public notice:

Provided that, in the case of any such roof or wall in existence before the issue of such a public notice or made with the consent of the [1][Board], that Authority[2] shall make compensation, not exceeding the original cost of constructing the roof or wall, for any damage caused by the removal.

122. A [1][Board] may, by public notice, prohibit in any case where such prohibition appears to it to be necessary for the prevention of danger to life or property, the stacking or collecting of wood, dry grass, straw or other inflammable materials, or the placing of mats or thatched huts or the lighting of fires in any place in the cantonment, or within any limits therein, which may be specified in the notice. Stacking or collecting inflammable materials.

123. No person shall set a naked light on or near any building in any street or other public place in a cantonment in such manner as to cause danger of fire: Care of naked lights.

Provided that nothing in this section shall be deemed to prohibit the use, subject to the permission in writing of the [1][Board] of lights for purposes of illumination on the occasion of a festival or public or private entertainment.

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for " Cantonment Authority ".

[2] *Sic.* The reference is obviously to the Board.

(Chapter IX.—Public Safety and Suppression of Nuisances.)

Regulation of cinematographic and dramatic performances.

124. *(1)* Notwithstanding anything contained in the Cinematograph Act, 1918, no exhibition of pictures or other optical effects by means of a cinematograph or other like apparatus for the purpose of which inflammable films are used, and no public dramatic performance or pantomime, shall be given in any cantonment elsewhere than in premises for which a licence has been granted by the [1][Board] under this section. II

(2) If the owner of a cinematograph or other apparatus uses the apparatus or allows it to be used, or if any person takes any part in any public dramatic performance or pantomime, in contravention of the provisions of this section, or if the occupier of any premises allows them to be used in contravention of the provisions of this section or of any condition of any licence granted under this section, he shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing offence, with an additional fine which may extend to fifty rupees for each day after the first during which the offence continues.

(3) Nothing in this section shall be deemed to prohibit the giving of any exhibition or any dramatic performance or pantomime in any theatre or institute which is the property of [2][the Crown] where the exhibition, performance or pantomime is held with the permission and under the control of the military authorities.

Discharging fire-works, fire-arms, etc.

125. Whoever in a cantonment discharges any fire-arm or lets off fire-works or fire-balloons, or engages in any game in such manner as to cause or to be likely to cause danger to persons passing by or dwelling or working in the neighbourhood or risk of injury to property shall be liable to fine which may extend to fifty rupees.

Power to require buildings, , etc., to be ...red fe.

126. Where in a cantonment any building, or wall, or anything affixed thereto, or any well, tank, reservoir, pool, depression, or excavation, or any bank or tree, is, in the opinion of the [1][Board], [3][in a ruinous state or], for want of sufficient repairs, protection or enclosure, [3][a nuisance or] dangerous to persons passing by or dwelling or working in the neighbourhood, the [1][Board] may, by notice in writing, require the owner [4][or part-owner or person claiming to be the owner or part-owner thereof, or, failing any of them, the occupier] thereof [3][either to remove the same or] to repair, [5][or to protect or to enclose] the same in such manner as it thinks necessary; and, if the danger is, in the opinion of the [1][Board], imminent, it shall forthwith take such steps as it thinks necessary to avert the same.

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".

[2] Subs. by the A. O. for "Govt."

[3] Ins. by s. 7 of the Cantonments (Amendment) Act, 1925 (7 of 1925).

[4] Ins. by s. 38 of Act 24 of 1936.

[5] Subs. by s. 38, *ibid.*, for "protect or enclose".

127. A [1][Board] may, by notice in writing, require the owner or part-owner, or person claiming to be the owner or part owner, of any building or land in the cantonment, or the lessee or the person claiming to be the lessee of any such land, which, by reason of disuse or disputed ownership or other cause, has remained unoccupied and has become the resort of idle and disorderly persons or of persons who have no ostensible means of subsistence or cannot give a satisfactory account of themselves, or is used for gaming or immoral purposes, or otherwise occasions or is likely to occasion a nuisance, to secure and enclose the same within such time as may be specified in the notice. Enclosure of waste land used for improper purposes.

CHAPTER X

SANITATION AND THE PREVENTION AND TREATMENT OF DISEASE

Sanitary Authorities

128. The following officers shall, for the purposes of sanitation, have control over, and be responsible for maintaining in a sanitary condition, those parts of a cantonment, respectively, which are specified in the case of each, that is to say :— Responsibility for sanitation.

(*a*) the [2][Officer Commanding the station]—all buildings and lands which are occupied or used for military purposes ;

(*b*) the Officer Commanding the air forces in the cantonment—all buildings and lands which are occupied or used for air force purposes ;

(*c*) the head of any civil department or railway administration occupying as such any part of the cantonment—all buildings and lands in his charge as head of that department or administration.

129. (*1*) The Health Officer shall exercise a general sanitary supervision over the whole cantonment, and shall submit monthly to the [1][Board] a report as to the sanitary condition of the cantonment, together with such recommendations in connection therewith as he thinks fit. General duties of Health Officer.

(*2*) The Assistant Health Officer shall perform such duties in connection with the sanitation of the cantonment as are, subject to the control of the [1][Board], allotted to him by the Health Officer.

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[1] Subs. by s. 60 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "Cantonment Authority".

[2] Subs. by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925), for "Commanding Officer of the Cantonment".

(Chapter X.—Sanitation and the Prevention and Treatment of Disease.)

Conservancy and Sanitation.

Public latrines, urinals and conservancy establishments.

130. All public latrines and urinals provided or maintained by a [1][Board] shall be so constructed as to provide separate compartments for each sex and not to be a nuisance, and shall be provided with all necessary conservancy establishments, and shall regularly be cleansed and kept in proper order.

Power of Board to undertake private conservancy arrangements.

131. (*1*) On the application or with the consent of the occupier of any building or land, or, where the occupier of any building or land fails to make arrangements to the satisfaction of the [1][Board] for the matters referred to in this section, without such consent, after and giving notice in writing to the occupier, a [1][Board] may undertake the house scavenging of any building or land in the cantonment for such period as it thinks fit on such terms as it may prescribe in this behalf.

(*2*) Where the [1][Board] has undertaken the duties referred to in this section, all matter removed in the performance of such duties shall be the property of that Authority.[2]

(*3*) For the purposes of this section, " house scavenging " means the removal of filth or rubbish or other offensive matter from a privy, latrine, urinal, drain, cesspool, or other common receptacle for such matter.

Deposit and disposal of rubbish, etc.

132. (*1*) Every [1][Board] shall provide or appoint, in proper and convenient situations, public receptacles, depôts or places for the temporary deposit or disposal of household rubbish, offensive matter, carcases of dead animals and sewage.

(*2*) The [1][Board] may, by public notice, issue directions as to the time at which, the manner in which, and the conditions subject to which, any matter referred to in sub-section (*1*) may be removed along a street or may be deposited or otherwise disposed of.

(*3*) All matter deposited in receptacles, depôts or places provided or appointed under this section shall be the property of the [1][Board].

Cesspools, receptacles for filth, etc.

133. The Executive Officer of any cantonment may, by notice in writing,—

(*a*) require any person having the control whether as owner, lessee or occupier of any land or building in the cantonment—

(i) to close any cesspool appertaining to the land or building which is, in the opinion of the Executive Officer, a nuisance, or

(ii) to keep in a clean condition, in such manner as may be prescribed by the notice, any receptacle for filth or sewage accumulating on the land or in the building, or

(iii) to prevent the water of any private latrine, urinal, sink or bathroom or any other offensive matter, from soaking, draining or flowing, or being put, from the land or building upon any street or other public place, or into any water-course or into any drain not intended for the purpose; or

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for " Cantonment Authority ".

[2] *Sic.* The reference is obviously to the Board.

(*Chapter X —Sanitation and the Prevention and Treatment of Disease*)

(iv) to collect and deposit for removal by the conservancy establishment of the [1][Board], within such time and in such receptacle or place, situate at not more than one hundred feet from the nearest boundary of the premises, as may be specified in the notice, any offensive matter or rubbish which such person has allowed to accumulate or remain under, in or on such building or land , or

(*b*) require any person to desist from making or altering any drain leading into a public drain , or

(*c*) require any person having the control of a drain in the cantonment to cleanse, purify, repair or alter the same or otherwise put it in good order, within such time as may be specified in the notice

134. (*1*) Where any well, tank, cistern, reservoir, receptacle, or other place in the cantonment where water is stored or accumulates, whether within any private enclosure or not, is in such a condition as to create a nuisance or, in the opinion of the Health Officer or the Assistant Health Officer, is or is likely to be a breeding place for mosquitoes, the [1][Board] may, by notice in writing, require the owner, lessee or occupier thereof, within such period as may be specified in the notice to fill up or cover the well, cistern, reservoir or receptacle, or to fill up the tank, or to drain off or remove the water, as the case may be — Filling up of tank, etc

(*2*) The [1][Board] may, if it thinks fit, with the previous sanction of the [2][Officer Commanding in Chief, the Command,] meet the whole or any portion of the expenses incurred in complying with a requisition under sub section (*1*)

135. A [1][Board] may, by notice in writing, require the owner or lessee of any building or land in the cantonment to provide, in such manner as may be specified in the notice, any latrine, urinal, cesspool, dust bin or other receptacle for filth, sewage, or rubbish or any additional latrine, urinal cesspool or other receptacle as aforesaid, which should, in its opinion, be provided for the building or land — Provision of latrines, etc

136 Every person employing, whether on behalf of the Government or otherwise, more than ten workmen or labourers, and every person managing or having control of a market, school, theatre or other place of public resort, in a cantonment shall give notice of the fact to the [1][Board], and shall provide such latrine, and urinals, and shall employ such number of sweepers, as the [1][Board] thinks fit and shall cause the latrines and urinals to be kept clean and in proper order — Sanitation in factories, etc

Provided that nothing in this section shall apply in the case of a factory

1911 to which the Indian Factories Act, 1911,[3] applies

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[1] Subs by s 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority

[2] Subs by s 2 of the Cantonments (Amendment) Act, 1926 (35 of 1926) for ' Officer Commanding the District'

[3] *See* now the Indian Factories Act, 1934 (25 of 1934)

(*Chapter X.—Sanitation and the Prevention and Treatment of Disease.*)

Private latrines.

137. A [1][Board] may, by notice in writing,—

(*a*) require the owner or other person having the control of any private latrine or urinal in the cantonment not to put the same to public use ; or

(*b*) where any plan for the construction of private latrines or urinals has been approved by the [1][Board], and copies thereof may be obtained free of charge on application,—

(i) require any person repairing or constructing any private latrine or urinal not to allow the same to be used until it has been inspected by or under the direction of the Health Officer and approved by him as conforming with such plan ; or

(ii) require any person having control of any private latrine or urinal to re-build or alter the same in accordance with such plan ; or

(*c*) require the owner or other person having the control of any such private latrine or urinal which, in the opinion of the [1][Board], constitutes a nuisance, to remove the latrine or urinal ; or

(*d*) require any person having the control whether as owner, lessee or occupier of any land or building in the cantonment—

(i) to have any latrines provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or

(ii) to cleanse in such manner as the [1][Board] may specify in the notice any latrine or urinal belonging to the land or building ;

(*e*) require any person being the owner and having the control of any drain in the cantonment to provide, within ten days from the service of the notice, such covering as may be specified in the notice.

Removal of congested buildings.

138. (*1*) Where it appears to a [1][Board] that any block of buildings in the cantonment is in an unhealthy condition by reason of the manner in which the buildings are crowded together, or of the narrowness or closeness of the street, or of the want of proper drainage or ventilation, or of the impracticability of cleansing the buildings or other similar cause, it may cause the block to be inspected by a committee consisting of —

(*a*) the Health Officer,

(*b*) the Civil Surgeon of the district, or, if his services are not available, some other medical officer [2][*in the service of the Crown*],

(*c*) the Executive Engineer or a person deputed by the Executive Engineer in this behalf, and

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for " Cantonment Authority ".

[2] Subs. by the A. O. for " of the Govt."

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[1][(d) Where the cantonment is a Class I or Class II cantonment, two non-official members of the Board, or where the cantonment is a Class III cantonment, one non-official member of the Board.]

(2) The committee shall make a report in writing to the [2][Board] regarding the sanitary condition of the block, and if it considers that the condition thereof is likely to cause risk of disease to the inhabitants of the building or of the neighbourhood or otherwise to endanger the public health, it shall clearly indicate on a plan verified by the Executive Engineer or the person deputed by him to serve on the committee, the buildings which should in its opinion wholly or in part be removed in order to abate the unhealthy condition of the block.

(3) If, upon receipt of such report, the [2][Board] is of opinion that all or any buildings indicated should be removed, it may, by notice in writing, require the owners thereof to remove them:

Provided that the [2][Board] shall make compensation to the owners for any buildings so removed which may have been erected under proper authority:

Provided, further, that the [2][Board] may, if it considers it equitable in the circumstances so to do, pay to the owners such sum as it thinks fit as compensation for any buildings so removed which have not been erected under proper authority.

(4) For the purposes of this section "buildings" includes enclosure walls and fences appertaining to buildings.

139. (1) Where it appears to a [2][Board] that any building or part of a building in the cantonment which is used as a dwelling house is so overcrowded as to endanger the health of the inmates thereof, it may, after such inquiry as it thinks fit, by notice in writing require the owner or occupier of the building or part thereof, as the case may be, within such time not being less than one month as may be specified in the notice, to abate the overcrowding of the same by reducing the number of lodgers, tenants, or other inmates to such number as may be specified in the notice. Overcrowding of dwelling houses.

(2) Any person who fails, without reasonable cause, to comply with a requisition made upon him under sub-section (1) shall be punishable with fine which may extend to fifty rupees, and, in the case of a continuing offence, to an additional fine which may extend to five rupees for every day after the first during which the failure has continued.

140. (1) Where any building in a cantonment is so ill constructed or dilapidated as to be, in the opinion of the [2][Board], in an insanitary state, the [2][Board] may, by notice in writing, require the owner, within such time as may be specified in the notice, to execute such repairs or to make such alterations as it thinks necessary for the purpose of removing such defects. Power to require repair or alteration of building.

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[1] Subs. by s. 39 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for the original clause.

[2] Subs. by s. 69, *ibid.*, for "Cantonment Authority".

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(2) A copy of every notice issued under sub-section (1) shall be conspicuously posted on the building to which it relates.

(3) A notice issued under sub-section (1) shall be deemed to have been complied with if the owner of the building to which it relates has, instead of executing the repairs or making the alterations directed by the notice, removed the building.

Power to require land or building to be cleansed.

141. (1) The Executive Officer may, by notice in writing, require the owner, lessee or occupier of any building or land in the cantonment, which appears to him to be in a filthy or insanitary state, within twenty-four hours to cleanse the same or otherwise put it in a proper state, in such manner as may be specified in the notice.

(2) If, within three months from the date of the service of a notice under sub-section (1), any building or land in respect of which the notice was issued is again in a filthy or insanitary state, the owner, lessee or occupier, as the case may be, shall be punishable with fine which may extend to two hundred rupees.

Power to order disuse of house.

142. If a [1][Board] is satisfied that any building or part of a building in the cantonment which is intended for or used as a dwelling place is unfit for human habitation, it may cause a notice to be posted on some conspicuous part of the building prohibiting the owner or occupier thereof from using the building or room for human habitation, or allowing it to be so used, until it has been rendered fit for such use to the satisfaction of the [1][Board].

Removal of noxious vegetation.

143. A [1][Board] may, by notice in writing, require the owner, lessee, or occupier of any land in the cantonment to clear away and remove any thick or noxious vegetation or undergrowth which appears to it to be injurious to health or offensive to persons residing in the neighbourhood.

Agriculture and irrigation.

144. Where, in the opinion of a [1][Board], the cultivation in the cantonment of any description of crop or the use therein of any kind of manure or the irrigation of any land therein in any specified manner is likely to be injurious to the health of persons dwelling in the neighbourhood, the [1][Board] may, by public notice, prohibit such cultivation, use or irrigation after such date as may be specified in the notice, or may, by a like notice, direct that it shall be carried out subject to such conditions as the [1][Board] thinks fit :

Provided that if, when a notice is issued under this section, any land to which it relates has been lawfully prepared for cultivation or any crop is sown therein or is standing thereon, the [1][Board] shall, if it directs that the notice is to take effect on a date earlier than that by which the crop would ordinarily be sown or reaped, as the case may be, make compensation to all persons interested in the land or crop for the loss, if any, incurred by them respectively by reason of compliance with the notice.

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for " Cantonment Authority ".

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Burial and Burning Grounds

145. A [1][Board] may, by notice in writing, require the owner or person in charge of any burial or burning ground in the cantonment to supply such information as may be specified in the notice concerning the condition, management or position of such ground. Power to call for information regarding burial and burning grounds.

146. (*1*) No place in a cantonment which has not been used as a burial or burning ground before the commencement of this Act shall be so used without the permission in writing of the [1][Board]. Permission for use of new burial or burning ground.

(*2*) Such permission may be granted subject to any conditions which the [1][Board] thinks fit to impose for the purpose of preventing annoyance to or danger to the health of persons residing in the neighbourhood.

147. (*1*) Where a [1][Board] after making or causing to be made local inquiry, is of opinion that any burial or burning ground in the cantonment has become offensive to, or dangerous to the health of, persons living in the neighbourhood, it may with the previous sanction of the [2][Central Government], by notice in writing, require the owner or person in charge of such ground to close the same from such date as may be specified in the notice. Power to require closing of burial or burning ground.

(*2*) Where the [2][Central Government] sanctions the issue of any notice under sub-section (*1*), it shall declare the conditions on which the burial or burning ground may be re-opened, and a copy of such declaration shall be annexed to the notice.

(*3*) Where the [2][Central Government] sanctions the issue of any such notice, it shall require a new burial or burning ground to be provided at the expense of the cantonment fund, or, if the community concerned is willing to provide a new burial or burning ground, the [2][Central Government] shall require a grant to be made from the cantonment fund towards the cost of the same.

(*4*) No corpse shall be buried or burnt in any burial or burning ground in respect of which a notice issued under this section is for the time being in force.

148. The provisions of sections 145, 146 and 147 shall not apply in the case of any burial ground which is for the time being managed by or on behalf of the Government. Exemption from operation of sections 145 to 147.

149. A [1][Board] may, by public notice, prescribe routes in the cantonment by which alone corpses may be removed to burial or burning grounds. Removal of corpses.

Prevention of Infectious or Contagious Diseases

150. [3][Any person], being in charge of, or in attendance, whether as a medical practitioner or otherwise, upon any person in a cantonment whom Obligation to give information of

[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".
[2] Subs. by the A. O. for "L. G.".
[3] Subs. by s. 2 and Sch. I of the Repealing and Amending Act, 1930 (8 of 1930) for "Whoever".

shall be bound to take proper precautions against the communication of the disease to other persons using or who may thereafter use the conveyance and to notify such use to the owner, driver or person in charge of the conveyance, and further to report without delay to the Executive Officer the number of the conveyance and the name of the person so notified.

Disinfection of public conveyance.

158. (*1*) Where any person suffering from, or the corpse of any person who has died from, an infectious or contagious disease has been carried in a public conveyance which ordinarily plies in a cantonment, the driver thereof shall forthwith report the fact to the Executive Officer who shall forthwith cause the conveyance to be disinfected if that has not already been done.

(*2*) No such conveyance shall be brought again into use until the Executive Officer has granted a certificate stating that it can be used without causing risk of infection.

Penalty for failure to report.

159. Whoever fails to make to the Executive Officer any report which he is required to make by section 157 or section 158, shall be punishable with fine which may extend to one hundred rupees.

Driver of conveyance not bound to carry person suffering from infectious or contagious disease.

160. Notwithstanding anything contained in any law for the time being in force, no owner, driver or person in charge of a public conveyance shall be bound to convey or to allow to be conveyed in such conveyance in or in the vicinity of a cantonment any person suffering from an infectious or contagious disease or the corpse of any person who has died from such disease unless and until such person pays or tenders a sum sufficient to cover any loss and expense which would ordinarily be incurred in disinfecting the conveyance.

Disinfection of building or articles therein.

161. Where a [1][Board] is, upon the advice of the Health Officer, of opinion that the cleansing and disinfection of any building or part of a building in the cantonment or of any articles in any such building or part which are likely to retain infection, or the renewal of the flooring of any such building or part of such building, would tend to prevent or check the spread of any infectious or contagious disease, he may, by notice in writing, require the owner or occupier to cleanse and disinfect the said building, part or articles, as the case may be, or to renew the said flooring, within such time as may be specified in the notice :

Provided that where, in the opinion of the [1][Board], the owner or occupier is from poverty or any other cause unable effectually to carry out any such requisition, the [1][Board] may, at the expense of the cantonment fund, cleanse and disinfect the building, part or articles, or, as the case may be, renew the flooring.

Destruction of infectious *hut or shed.*

162. (*1*) Where the destruction of any hut or shed in a cantonment is, in the opinion of the [1][Board], necessary to prevent the spread of any infectious or contagious disease, the [1][Board] may, by notice in writing, require

[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".

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the owner to destroy the hut, or shed and the materials thereof within such time as may be specified in the notice

(2) Where the President of a Board [1]* * * is satisfied that the destruction of any hut or shed in the cantonment is immediately necessary for the purpose of preventing the spread of any infectious or contagious disease, he may order the owner or occupier of the hut or shed to destroy the same forthwith, or may himself cause it to be destroyed after giving not less than two hours' notice to the owner or occupier thereof

(3) The [2][Board] shall pay compensation to the owner of any hut or shed destroyed under this section

163. The [2][Board] shall provide free of charge temporary shelter or house accommodation for the members of any family in which an infectious or contagious disease has appeared who have been compelled to leave their dwelling by reason of any proceedings taken under section 161 or section 162, and who desire such shelter or accommodation as aforesaid to be provided for them. Temporary shelter for inmates of disinfected or destroyed building or shed.

164. (1) Where in a cantonment any building or part of a building is intended to be let in which any person has within the six weeks immediately preceding, been suffering from an infectious or contagious disease the person letting the building or part shall before doing so disinfect the same in such manner as the [2][Board] may, by public or special notice direct, together with all articles therein liable to retain infection. Disinfection of building before letting the same

(2) For the purposes of this section the keeper of an hotel lodging house or sarai shall be deemed to let to any person who is admitted as a guest therein that part of the building in which such person is permitted to reside

165. No person shall without previous disinfection of the same, give, lend, sell, transmit or otherwise dispose of to another person any article or thing which he knows or has reason to believe has been exposed to contamination by any infectious or contagious disease and is likely to be used in, or taken into, a cantonment. Disposal of infected article without disinfection

166 (1) Every [2][Board] shall— Means of disinfection

(a) provide proper places with necessary attendants and apparatus for the disinfection of conveyances, clothing, bedding or other articles which have been exposed to infection ,

(b) cause conveyances, clothing or other articles brought for disinfection to be disinfected either free of charge or on payment of such charges as it may fix

(2) A [2][Board] may notify places at which articles of clothing bedding, conveyances or other articles which have been exposed to infection shall

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[1] The words ' or, where there is no Board the Officer Commanding the station ' rep by s 40 of the Cantonments (Amendment) Act 1936 (24 of 1936)

[2] Subs by s 69 ibid, for Cantonment Authority

be washed, and, if it does so, no person shall wash any such thing at any place not so notified without having previously disinfected such thing.

(*3*) The President of a Board [1]* * * may direct the destruction of any clothing, bedding or other article in the cantonment likely to retain infection, and may give such compensation as he thinks fit for any article so destroyed.

Making or selling of food, etc., or washing clothes by infected person.

167. Whoever, while suffering from, or in circumstances in which he is likely to spread, any infectious or contagious disease,—

(*a*) makes, carries or offers for sale in a cantonment or takes any part in the business of making, carrying or offering for sale therein any article of food or drink or any medicine or drug for human consumption, or any article of clothing or bedding for personal use or wear, or

(*b*) takes any part in the business of the washing or carrying of clothes,

shall be punishable with fine which may extend to one hundred rupees.

Power to restrict or prohibit sale of food or drink.

168. When a cantonment is visited or threatened by an outbreak of any infectious or contagious disease, the [2][Board] may, by public notice, restrict in such manner or prohibit for such period, as may be specified in the notice, the sale or preparation of any article of food or drink for human consumption specified in the notice or the sale of any flesh of any description of animals so specified.

Control over wells, tanks, etc.

169. (*1*) If a [2][Board] is of opinion that the water in any well, tank or other place is likely, if used for drinking, to engender, or cause the spread of, any disease, it may,—

(*a*) by public notice, prohibit the removal or use of such water for drinking;

(*b*) by notice in writing, require the owner or person having control of such well, tank or place to take such steps as may be directed by the notice to prevent the public from having access to or using such water; or

(*c*) take such other steps as it may consider expedient to prevent the outbreak or spread of any such disease.

(*2*) In the event of a cantonment or any part of a cantonment being visited or threatened by an outbreak of any infectious or contagious disease, the Health Officer or any person authorised by him in this behalf may, without notice and at any time, inspect and disinfect any well, tank or other place from which water is, or is likely to be, taken for the purposes of drinking, and may further take such steps as he thinks fit to ensure the purity of the water or to prevent the use of the same for drinking purposes.

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[1] The words " or, where there is no Board, the Officer Commanding the station " rep. by s. 41 of the Cantonments (Amendment) Act, 1936 (24 of 1936).

[2] Subs. by s. 69, *ibid.*, for " Cantonment Authority ".

170. Where any person has died in a cantonment from any infectious or contagious disease, the Executive Officer may, by notice in writing,— **Disposal of infectious corpse.**

(a) require any person having charge of the corpse to convey the same to a mortuary, thereafter to be disposed of in accordance with law, or

(b) prohibit the removal of the corpse from the place where death occurred except for the purpose of being buried or burned or of being conveyed to a mortuary.

Hospitals and Dispensaries.

171. (1) A [1][Board] may— **Maintenance or aiding of hospitals or dispensaries.**

(a) provide and maintain either within or without the cantonment as many hospitals and dispensaries as it thinks fit, or

(b) make, upon such terms as it thinks fit to impose, a grant in aid to any hospital or dispensary [2][or veterinary hospital] whether within or without the cantonment, not maintained by it.

(2) Every hospital or dispensary maintained or aided under sub-section (1) shall have attached to it a ward or wards for the treatment of persons suffering from infectious or contagious diseases.

(3) A medical officer, appointed in such manner as the [3][Central Government] may direct, shall be in charge of every hospital or dispensary maintained or aided under this section.

172. (1) Every hospital or dispensary maintained or aided under section 171 shall be maintained in accordance with any general or special orders of the [4][Central Government] [5]* * * for the conduct of hospitals and dispensaries or in accordance with the said orders modified in such manner as the [4][Central Government] [5]* * * [6]* * *, thinks fit. **Medical supplies, appliances, etc.**

(2) The [1][Board] shall cause every such hospital or dispensary to be provided with all requisite drugs, instruments, apparatus, furniture and appliances and with sufficient cots, bedding and clothing for in-patients.

173. At every hospital or dispensary maintained or aided under section 171, the sick poor of the cantonment and other inhabitants of the cantonment suffering from infectious or contagious diseases, and, with the sanction of the [1][Board], any other sick persons, may receive medical [7][or surgical] treatment free of cost, and, if treated as in-patients, shall be either dieted **Free patients.**

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".
[2] Ins. by s. 42, *ibid.*
[3] Subs. by the A. O. for "L. G."
[4] Subs. by the A. O. for "G. G. in C."
[5] The words "or the L. G." rep. by the A. O.
[6] The words "as the case may be" rep. by the A. O.
[7] Ins. by s. 43 of Act 24 of 1936.

gratuitously or, if the medical officer in charge so directs, shall be granted subsistence allowance on such scale as the [1][Board] may fix:

Provided that the subsistence allowance shall not be less than the lowest allowance for the time being fixed for the subsistence of judgment debtors by the [2][Provincial Government] under section 57 of the Code of Civil Procedure, 1908.

Paying patients.

174. Any sick person who is ineligible to receive medical [3][or surgical] treatment free of cost in any hospital or dispensary under section 173 may be admitted to treatment therein upon such terms as the [1][Board] thinks fit.

Power to order person to attend hospital or dispensary.

175. (*1*) If the Health Officer or the medical officer in charge of a hospital or dispensary maintained or aided under section 171 has reason to believe that any person living in the cantonment is suffering from an infectious or contagious disease, he may, by notice in writing, call upon such person to attend for examination at any such hospital or dispensary at such time as may be specified in the notice and not to quit it without the permission of the medical officer in charge; and, on the arrival of such person at the hospital or dispensary, the medical officer in charge thereof may examine him for the purpose of satisfying himself whether or not such person is suffering from an infectious or contagious disease:

Provided that, if, having regard to the nature of the disease or the condition of the person suffering therefrom, or the general environment and circumstances of such person, the Health Officer or medical officer, as the case may be, considers that the attendance of such person at a hospital or dispensary is likely to prove unnecessary or inexpedient, he shall examine such person at such person's own residence.

(*2*) If any person, on examination under sub-section (*1*), is found to be suffering from an infectious or contagious disease, the Health Officer or medical officer, as the case may be, may cause him to be detained in hospital until he is free from the infection or contagion:

Provided that, if having regard to the nature of the disease or the condition of the person suffering therefrom, or the general environment and circumstances of such person, he considers that the detention of such person at a hospital or dispensary is unnecessary or inexpedient, he shall discharge such person and take such measures or give such directions in the matter as he thinks necessary.

Power to exclude from cantonment persons refusing

176. (*1*) If the Health Officer or the medical officer in charge of a hospital or dispensary maintained or aided under section 171 reports in writing to the [4][Officer Commanding the station] that any person having received

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".
[2] Subs. by the A. O. for "L. G."
[3] Ins. by s. 44 of Act 24 of 1936.
[4] Subs. by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925) for "Commanding Officer of the Cantonment".

(Chapter X.—Sanitation and the Prevention and Treatment of Disease.)

a notice under section 175 has refused or omitted to attend at the hospital or dispensary specified in the notice or that such person, having attended the hospital or dispensary, has quitted it without the permission of such medical officer or that any person has failed to comply with any direction given to him under section 175 the [1][Officer Commanding the station] may, by order in writing direct such person to remove from the cantonment within twenty four hours and not to re enter it without his permission in writing. to attend hospital or dispensary.

(2) No person who has under sub section (1) been ordered to remove from and not to re enter a cantonment shall enter any other cantonment in British India without the written permission of the [2][Officer Commanding the station]

Control of Traffic for Hygienic Purposes

177. (1) A [3][Board] may provide or prescribe suitable routes for the use of persons passing through the cantonment— Routes for pilgrims and others

(a) on their way to or from fairs or places of pilgrimage or other places of public resort, or

(b) during times when an infectious or contagious disease is prevalent,

and may, by public notice require such persons as aforesaid to use such routes and no others

(2) All routes provided or prescribed under sub section (1) shall be clearly and sufficiently indicated by the [3][Board]

Special Conditions regarding Essential Services

178 (1) Whoever, being a sweeper employed by a [3][Board] in the absence of a written contract authorising him so to do and without reasonable cause resigns his employment or absents himself from his duty without having given one month's notice to the [3][Board] or neglects or refuses to perform his duties, or any of them, shall be punishable with imprisonment which may extend to one month *Conditions of service of sweepers*

(2) The [4][Central Government] may, by notification in the [5][Official Gazette] direct that on and from such date as may be specified in the notification, the provisions of this section shall apply in the case of any specified class of servants employed by a [3][Board] whose functions intimately concern the public health or safety

(3) For the purpose of this section "sweeper" includes any menial servant employed by a [3][Board] in the removal or disposal of filth or rubbish

[1] Subs by s 14 of the Cantonments (Amendment) Act 1925 (" of 1925) for Commanding Offic [illegible]

[2] [illegible] Cantonment

[3] [illegible] 1936 (24 of 1936) for 'Cantonment Authority

[4] Subs by the A O for L G

[5] Subs by the A O for local official Gazette

(*Chapter XI.—Control over Buildings, Streets, Boundaries, Trees, etc.*)

together with his report thereon to the Board within thirty days after it has been received by him.

(*4*) The Board may refuse to sanction the erection or re-erection of any building—

(*a*) when the land on which it is proposed to erect or re-erect the building is held on a lease [1][from the Crown], if the erection or re-erection constitutes a breach of the terms of the lease, or

(*b*) when the land on which it is proposed to erect or re-erect the building is not held on a lease [1][from the Crown], if the right to build on such land is in dispute between the person applying for sanction and the Government.

(*5*) If the Board decides to refuse to sanction the erection or re-erection of the building, it shall communicate in writing the reasons for such refusal to the person by whom notice was given.

(*6*) Where the Board neglects or omits, for one month after the receipt of a valid notice, to make and to deliver to the person who has given the notice any order of any nature specified in this section, and such person thereafter by a written communication sent by registered post to the Board calls the attention of the Board to the neglect or omission, then, if such neglect or omission continues for a further period of fifteen days from the date of such communication the Board shall be deemed to have given sanction to the erection or re-erection, as the case may be, unconditionally:

Provided that, in any case to which the provisions of sub-section (*3*) apply, the period of one month herein specified shall be reckoned from the date on which the Board has received the report referred to in that sub-section.]

Compensation.

182. (*1*) No compensation shall be claimable by any person for any damage or loss which he may sustain in consequence of the refusal of the [2][Board] of sanction to the erection of any building or in respect of any direction issued by it under sub-section (*1*) of section 181.

(*2*) The [2][Board] shall make compensation to the owner of any building for any actual damage or loss sustained by him in consequence of the prohibition of the re-erection of any building or of its requiring any land belonging to him to be added to the street:

Provided that the [2][Board] shall not be liable to make any compensation in respect of the prohibition of the re-erection of any building which for a period of three years or more immediately preceding such refusal has not been in existence or has been unfit for human habitation.

Lapse of sanction.

183. Every sanction for the erection or re-erection of a building given or deemed to have been given by the [2][Board] as hereinbefore provided shall be available for one year from the date on which it is given, and, if the building so sanctioned is not begun by the person who has obtained the sanction

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[1] Subs. by the A. O. for "from Govt."
[2] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".

or some one lawfully claiming under him within that period, it shall not thereafter be begun [1][unless the Board on application made therefor has allowed an extension of that period]

[2][183A. A Board, when sanctioning the erection or re erection of a building as hereinbefore provided, shall specify a reasonable period after the work has commenced within which the erection or re erection is to be completed, and, if the erection or re erection is not completed within the period so fixed, it shall not be continued thereafter without fresh sanction obtained in the manner hereinbefore provided, unless the Board on application made therefor has allowed an extension of that period

Period for completion of building

Provided that not more than two such extensions shall be allowed by the Board in any case]

184 Whoever begins, continues or completes the erection or re-erection of a building—

Illegal erection and re erection

(*a*) without having given a valid notice as required by sections 179 and 180, or before the building has been sanctioned or is deemed to have been sanctioned, or

(*b*) without complying with any direction made under sub section (*1*) of section 181, or

(*c*) when sanction has been refused, or has ceased to be available, [3][or has been suspended by the Officer Commanding in Chief, the Command, under clause (*b*) of sub section (*1*) of section 52]

shall be punishable with fine which may extend to five hundred rupees

185. [4][(*1*)] A [5][Board] may, at any time, by notice in writing, direct the owner, lessee or occupier of any land in the cantonment to stop the erection or re erection *of a building in any case in which the* [5]*[Board] considers* that such erection or re erection is an offence under section 184, and may in any such case [6][or in any other case in which the Board considers that the erection or re erection of a building is an offence under section 184, within six months of the completion of such erection or re erection] in like manner direct the alteration or demolition as it thinks necessary, of the building or any part thereof, so erected or re erected

Power to stop erection or re erection or to demolish

Provided that the [5][Board] may, instead of requiring the alteration or demolition of any such building or part thereof, accept by way of composition such sum as it thinks reasonable

[6][Provided further that the Board shall not, without the previous concurrence of the Officer Commanding in Chief, the Command, accept any

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[1] Subs by s 48 of the Cantonments (Amendment) Act 1936 (24 of 1936) for "without ... manner hereinbefore provided"

... of that section by s. 51, *ibid.*

connection or communication between such building or land and any drain or sewer.

(2) For the purpose of efficiently draining any building or land in the cantonment, the [1][Board] may, by notice in writing, require the owner or lessee of the building or land—

(*a*) to pave, with such materials and in such manner as it thinks fit, any courtyard, ally or passage between two or more buildings, or

(*b*) to keep any such paving in proper repair.

Power to attach brackets for lamps.

190. A [1][Board] may attach to the outside of any building, or to any tree in the cantonment, brackets for lamps in such manner as not to occasion injury thereto or inconvenience.

Streets.

Temporary occupation of street, land, etc.

191. A [1][Board] may, by order in writing, permit the temporary occupation of any street, or of any land vested in the [1][Board], for the purpose of depositing any building materials or making any temporary excavation therein or erection thereon, subject to such conditions as it may prescribe for the safety or convenience of the public, and may charge a fee for such permission and may in its discretion withdraw such permission.

Closing and opening of streets.

192. (*1*) A [1][Board] shall not permanently close any street or open any new street without the previous sanction of the [2][Officer Commanding-in-Chief, the Command].

(*2*) A [1][Board] may, by public notice, temporarily close any street or any part of a street for repair or for the purpose of carrying out any work connected with drainage, water-supply or lighting or any other work which it is by or under this Act required or permitted to carry out:

Provided that where, owing to any works or repairs or from any other cause, the condition of any street or of any water-works, drain, culvert or premises vested in the [1][Board], is such as to be likely to cause danger to the public, the [1][Board] shall—

(*a*) take all reasonable means for the protection of the adjacent buildings and land and provide reasonable means of access thereto;

(*b*) cause sufficient barriers or fences to be erected for the security of life and property, and cause such barriers or fences to be sufficiently lighted from sunset to sunrise.

Names of streets and numbers of buildings.

193. (*1*) A [1][Board] may cause a name to be given to any street and to be affixed on any building in the cantonment in such place as it thinks fit, and may also cause a number to be affixed to any such building.

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".

[2] Subs. by s. 2 of the Cantonments (Amendment) Act, 1926 (35 of 1926) for "Officer Commanding the District".

(Chapter XI —Control over Buildings, Streets, Boundaries, Trees, etc.)

(2) Whoever destroys, pulls down defaces or alters any such name or number or puts up any name or number differing from that put up by the order of the [1][Board] shall be punishable with fine which may extend to twenty rupees

[2][(3) When a number has been affixed to any building under sub section (1), the owner of the building shall maintain the number in order, and shall replace it if removed or defaced, and if he fails to do so the Board may by notice in writing require him to replace it]

Boundaries and Trees

194. (1) No boundary wall, hedge or fence of any material or description shall be erected in a cantonment without the permission in writing of the [1][Board] Boundary walls hedges and fences

(2) A [1][Board] may, by notice in writing, require the owner or lessee of any land in the cantonment—

(a) to remove from the land any boundary wall, hedge or fence which is in its opinion unsuitable, unsightly or otherwise objectionable , or

(b) to construct on the land sufficient boundary walls, hedges or fences of such material description or dimensions as may be specified in the notice , or

(c) to maintain the boundary walls, hedges or fences of such lands in good order

Provided that, in the case of any such boundary wall, hedge or fence which was erected with the consent or under the orders of the [1][Board], or which was in existence at the commencement of this Act, the [1][Board] shall make compensation for any damage caused by the removal thereof

(3) The [1][Board] may, by notice in writing, require the owner, lessee or occupier of any such land to cut or trim any hedge on the land in such manner and within such time as may be specified in the notice

195. (1) Where, in the opinion of a [1][Board], the felling of any tree of mature growth standing in a private enclosure in the cantonment is necessary for any reason, the [1][Board] may, by notice in writing, require the owner, lessee or occupier of the land to fell the tree within such time as may be specified in the notice Felling, lopping and trimming of trees

(2) A [1][Board] may—

(a) cause to be lopped or trimmed any tree standing on land in the cantonment which belongs to [3][the Crown] , or

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[1] Subs by s 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Canton ment Authority"

[2] Ins by s 53 ibid

[3] Subs by the A O for 'Govt '

connection or communication between such building or land and any drain or sewer.

(2) For the purpose of efficiently draining any building or land in the cantonment, the [1][Board] may, by notice in writing, require the owner or lessee of the building or land—

(a) to pave, with such materials and in such manner as it thinks fit, any courtyard, ally or passage between two or more buildings, or

(b) to keep any such paving in proper repair.

Power to attach brackets for lamps.

190. A [1][Board] may attach to the outside of any building, or to any tree in the cantonment, brackets for lamps in such manner as not to occasion injury thereto or inconvenience.

Streets.

Temporary occupation of street, land, etc.

191. A [1][Board] may, by order in writing, permit the temporary occupation of any street, or of any land vested in the [1][Board], for the purpose of depositing any building materials or making any temporary excavation therein or erection thereon, subject to such conditions as it may prescribe for the safety or convenience of the public, and may charge a fee for such permission and may in its discretion withdraw such permission.

Closing and opening of streets.

192. (1) A [1][Board] shall not permanently close any street or open any new street without the previous sanction of the [2][Officer Commanding-in-Chief, the Command].

(2) A [1][Board] may, by public notice, temporarily close any street or any part of a street for repair or for the purpose of carrying out any work connected with drainage, water-supply or lighting or any other work which it is by or under this Act required or permitted to carry out:

Provided that where, owing to any works or repairs or from any other cause, the condition of any street or of any water-works, drain, culvert or premises vested in the [1][Board], is such as to be likely to cause danger to the public, the [1][Board] shall—

(a) take all reasonable means for the protection of the adjacent buildings and land and provide reasonable means of access thereto;

(b) cause sufficient barriers or fences to be erected for the security of life and property, and cause such barriers or fences to be sufficiently lighted from sunset to sunrise.

Names of streets and numbers of buildings.

193. (1) A [1][Board] may cause a name to be given to any street and to be affixed on any building in the cantonment in such place as it thinks fit, and may also cause a number to be affixed to any such building.

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".

[2] Subs. by s. 2 of the Cantonments (Amendment) Act, 1926 (35 of 1926) for "Officer Commanding the District".

(2) Whoever destroys, pulls down, defaces or alters any such name or number or puts up any name or number differing from that put up by the order of the [1][Board] shall be punishable with fine which may extend to twenty rupees

[2][(3) When a number has been affixed to any building under sub section (1) the owner of the building shall maintain the number in order, and shall replace it if removed or defaced, and if he fails to do so the Board may by notice in writing require him to replace it]

Boundaries and Trees

194. (1) No boundary wall hedge or fence of any material or description shall be erected in a cantonment without the permission in writing of the [1][Board] **Boundary walls hedges and fences**

(2) A [1][Board] may, by notice in writing, require the owner or lessee of any land in the cantonment—

(a) to remove from the land any boundary wall hedge or fence which is in its opinion unsuitable, unsightly or otherwise objectionable , or

(b) to construct on the land sufficient boundary walls, hedges or fences of such material description or dimensions as may be specified in the notice or

(c) to maintain the boundary walls, hedges or fences of such lands in good order

Provided that, in the case of any such boundary wall hedge or fence which was erected with the consent or under the orders of the [1][Board], or which was in existence at the commencement of this Act, the [1][Board] shall make compensation for any damage caused by the removal thereof

(3) The [1][Board] may, by notice in writing, require the owner, lessee or occupier of any such land to cut or trim any hedge on the land in such manner and within such time as may be specified in the notice

195. (1) Where, in the opinion of a [1][Board], the felling of any tree of mature growth standing in a private enclosure in the cantonment is necessary for any reason, the [1][Board] may, by notice in writing, require the owner, lessee or occupier of the land to fell the tree within such time as may be specified in the notice **Felling, lopping and trimming of trees**

(2) A [1][Board] may—

(a) cause to be lopped or trimmed any tree standing on land in the cantonment which belongs to [3][the Crown] , or

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[1] Subs by s 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Canton ment Authority

[2] Ins by s 53 ibid

[3] Subs by the A O for 'Govt "

(*b*) by public notice require all owners, lessees or occupiers of land in the cantonment, or by notice in writing require the owner, lessee or occupier of any such land, to lop or trim, in such manner as may be specified in the notice, all or any trees standing on such land or to remove any dead trees from such land.

Digging of public land.

196. Whoever, without the permission in writing of the [1][Board], digs up the surface of any open space in the cantonment, which is not private property, shall be punishable with fine which may extend to twenty rupees, and, in the case of a continuing offence, [2][with an additional fine] which may extend to five rupees for every day after the first during which the offence continues.

Improper use of land.

197. (*1*) If, in the opinion of a [1][Board], the working of a quarry in the cantonment, or the removal of stone, earth or other material from the soil in any place in the cantonment, is dangerous to persons residing in or frequenting the neighbourhood of such quarry or place, or creates, or is likely to create, a nuisance, the [1][Board] may, by notice in writing, prohibit the owner, lessee or occupier of such quarry or place of the person responsible for such [3][working] or removal, from continuing or permitting the working of such quarry or the moving of such material, or require him to take such steps in the matter as the [1][Board] may direct for the purpose of preventing danger or abating the nuisance arising or likely to arise therefrom.

(*2*) If, in any case referred to in sub-section (*1*), the [1][Board] is of opinion that such a course is necessary in order to prevent imminent danger, it may, by order in writing, require a proper hoarding or fence to be put up for the protection of passers-by.

CHAPTER XII.

Markets, Slaughter-Houses, Trades and Occupations.

Public markets and slughter-houses.

198. (*1*) A [1][Board] may provide and maintain, either within or without the cantonment, public markets and public slaughter-houses, to such number as it thinks fit, together with stalls, shops, sheds, pens and other buildings or conveniences for the use of persons carrying on trade or business in or frequenting such markets or slaughter-houses, and may provide and maintain in any such market buildings, places, machines, weights, scales and measures for the weighment or measurement of goods sold therein.

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".

[2] Subs. by s. 2 and Sch. I of the *Repealing and Amending Act*, 1930 (8 of 1930) for "to an additional fine".

[3] Subs. by s. 2 and Sch. I, *ibid.*, for "making".

(2) When such market or slaughter house is situated beyond cantonment limits, the [1][Board] shall have the same power for the inspection and proper regulation of the same as if it were situated within those limits

(3) The [1][Board] may at any time by public notice, close any public market or public slaughter house or any part thereof

(4) Nothing in this section shall be deemed to authorise the establishment of a public market or public slaughter house within the limits of any area administered by any local authority other than the [1][Board] without the permission of such local authority or otherwise than on such conditions as such local authority may approve

199. (1) No person shall without the general or special permission in writing of the [1][Board] sell or expose for sale any animal or article in any public market

Use of public markets

(2) Any person contravening the provisions of this section, and any animal or article exposed for sale by such person, may be summarily removed from the market by or under the orders of the Executive Officer or any officer or servant of the [1][Board] authorised by it in this behalf

200. A [1][Board] may—

Levy of stallages, rents and fees

(a) charge for the occupation or use of any stall, shop, standing shed or pen in a public market, or public slaughter house or for the right to expose goods for sale in a public market, or for weighing or measuring goods sold therein, or for the right to slaughter animals in any public slaughter house, such stallages, rents and fees as it thinks fit, or

(b) with the sanction of the [2][Officer Commanding in Chief, the Command], farm the stallages, rents and fees leviable as aforesaid or any portion thereof for any period not exceeding one year at a time, or

(c) put up to public auction, or with the sanction of the [2][Officer Commanding in Chief, the Command], dispose of by private sale, the privilege of occupying or using any stall, shop, standing, shed or pen in a public market or public slaughter house for such term and on such conditions as it thinks fit

201. A copy of the table of stallages, rents and fees, if any, leviable in any public market or public slaughter house, and of the bye laws made under this Act for the purpose of regulating the use of such market or slaughter-house, printed in the English language and in such other language or languages as the [1][Board] may direct, shall be affixed in some conspicuous place in the market or slaughter-house

Stallages, rents, etc, to be published

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[1] Subs by s 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority"

[2] Subs by s 2 of the Cantonments (Amendment) Act, 1926 (35 of 1926) for "Officer Commanding the District

(*Chapter XII.—Markets, Slaughter-Houses, Trades and Occupations.*)

Private markets and slaughter-houses.

202. (*1*) No place in a cantonment other than a public market shall be used as a market, and no place in a cantonment other than a public slaughter-house shall be used as a slaughter-house, unless such place has been licensed as a market or slaughter-house, as the case may be, by the [1][Board] :

Provided that nothing in this sub-section shall apply in the case of a slaughter-house established and maintained by the Government.

(*2*) Nothing in sub-section (*1*) shall be deemed—

(*a*) to restrict the slaughter of any animal in any place on the occasion of any festival or ceremony, subject to such conditions as to prior or subsequent notice as the Executive Officer with the previous sanction of the District Magistrate may, by public or special notice, impose in this behalf, or

(*b*) to prevent the Executive Officer, with the sanction of the [1][Board], from setting apart places for the slaughter of animals in accordance with religious custom, when such animals are slaughtered for consumption by the troops or for the purpose of the sale of the flesh thereof to the troops.

(*3*) Whoever omits to comply with any condition imposed by the Executive Officer under clause (*a*) of sub-section (*2*) shall be punishable with fine which may extend to fifty rupees and, in the case of a continuing offence, with an additional fine which may extend to ten rupees for every day after the first during which the offence is continued.

Conditions of grant of licence for private market or slaughter-house.

203. (*1*) A [1][Board] may charge such fees as it thinks fit to impose for the grant of a licence to any person to open a private market or private slaughter-house in the cantonment, and may grant such licence subject to such conditions, consistent with this Act and any bye-laws made thereunder, as it thinks fit to impose.

(*2*) The [1][Board] may refuse to grant any such licence without giving reasons for such refusal.

Penalty for keeping market or slaughter-house open without licence, etc.

204. (*1*) Any person who keeps open for public use any market or slaughter-house in respect of which a licence is required by or under this Act, without obtaining licence therefor, or while the licence therefor is suspended, or after the same has been cancelled, shall be punishable with fine which may extend to fifty rupees and, in the case of a continuing offence, with an additional fine which may extend to five rupees for every day after the first during which the offence is continued.

(*2*) When a licence to open a private market or private slaughter-house is granted or refused or is suspended or cancelled, the [1][Board] shall cause a notice of the grant, refusal, suspension or cancellation to be posted in English, and in such other language or languages as it thinks necessary, in some conspicuous place by or near the entrance to the place to which the notice relates.

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".

(*Chapter XII —Markets, Slaughter Houses, Trades and Occupations*)

205. Whoever, knowing that any market or slaughter house has been opened to the public without a licence having been obtained therefor when such licence is required by or under this Act, or that the licence granted therefor is for the time being suspended or that it has been cancelled, sells or exposes for sale any article in such market or slaughters any animal in such slaughter house, shall be punishable with fine which may extend to fifty rupees and, in the case of a continuing offence, with an additional fine which may extend to five rupees for every day after the first during which the offence is continued

Penalty for using unlicensed market or slaughter house

206. (*1*) Where in the opinion of the [1][Board], it is necessary on sanitary grounds so to do, it may, by public notice, prohibit for such period, not exceeding one month, as may be specified in the notice, or for such further period, not exceeding one month, as it may specify by a like notice, the use of any private slaughter house specified in the notice, or the slaughter therein of any animal of any description so specified

Prohibition and restriction of use of slaughter houses

(*2*) A copy of every notice issued under sub section (*1*) shall be conspicuously posted in the slaughter house to which it relates

207. (*1*) Any servant of a [1][Board], authorised by order in writing in this behalf by the President of the Board [2]* * or the Health Officer may, if he has reason to believe that any animal has been, is being, or is about to be slaughtered in any place in contravention of the provisions of this Chapter, enter into and inspect any such place at any time, whether by day or by night

Power to inspect slaughter houses

(*2*) Every such order shall specify the place to be entered and the locality in which the same is situated and the period, which shall not exceed seven days, for which the order is to remain in force

208. A [1][Board] may, with the approval of the [3][Central Government], make bye-laws consistent with this Act to provide for all or any of the following matters, namely —

Power to make bye-laws

(*a*) the days on, and the hours during, which any private market or private slaughter house may be kept open for use ,

(*b*) the regulation of the design, ventilation and drainage of such markets and slaughter houses, and the material to be used in the construction thereof ,

(*c*) the keeping of such markets and slaughter houses and lands and buildings appertaining thereto in a clean and sanitary condition, the removal of filth and refuse therefrom, and the supply therein of pure water and of a sufficient number of latrines and urinals for the use of persons using or frequenting the same ,

(*d*) the manner in which animals shall be stalled at a slaughter house ,

(*e*) the manner in which animals may be slaughtered ,

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[1] Subs by s 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for ' Canton ment Authority '

[2] The words " if any ' rep by s 54, *ibid*

[3] Subs by the A O for L G '

(*Chapter XII.—Markets, Slaughter-Houses, Trades and Occupations.*)

Private markets and slaughter-houses.

202. (*1*) No place in a cantonment other than a public market shall be used as a market, and no place in a cantonment other than a public slaughter-house shall be used as a slaughter-house, unless such place has been licensed as a market or slaughter-house, as the case may be, by the [1][Board] :

Provided that nothing in this sub-section shall apply in the case of a slaughter-house established and maintained by the Government.

(*2*) Nothing in sub-section (*1*) shall be deemed—

(*a*) to restrict the slaughter of any animal in any place on the occasion of any festival or ceremony, subject to such conditions as to prior or subsequent notice as the Executive Officer with the previous sanction of the District Magistrate may, by public or special notice, impose in this behalf, or

(*b*) to prevent the Executive Officer, with the sanction of the [1][Board], from setting apart places for the slaughter of animals in accordance with religious custom, when such animals are slaughtered for consumption by the troops or for the purpose of the sale of the flesh thereof to the troops.

(*3*) Whoever omits to comply with any condition imposed by the Executive Officer under clause (*a*) of sub-section (*2*) shall be punishable with fine which may extend to fifty rupees and, in the case of a continuing offence, with an additional fine which may extend to ten rupees for every day after the first during which the offence is continued.

Conditions of grant of licence for private market or slaughter-house.

203. (*1*) A [1][Board] may charge such fees as it thinks fit to impose for the grant of a licence to any person to open a private market or private slaughter-house in the cantonment, and may grant such licence subject to such conditions, consistent with this Act and any bye-laws made thereunder, as it thinks fit to impose.

(*2*) The [1][Board] may refuse to grant any such licence without giving reasons for such refusal.

Penalty for keeping market or slaughter-house open without licence, etc.

204. (*1*) Any person who keeps open for public use any market or slaughter-house in respect of which a licence is required by or under this Act, without obtaining licence therefor, or while the licence therefor is suspended, or after the same has been cancelled, shall be punishable with fine which may extend to fifty rupees and, in the case of a continuing offence, with an additional fine which may extend to five rupees for every day after the first during which the offence is continued.

(*2*) When a licence to open a private market or private slaughter-house is granted or refused or is suspended or cancelled, the [1][Board] shall cause a notice of the grant, refusal, suspension or cancellation to be posted in English, and in such other language or languages as it thinks necessary, in some conspicuous place by or near the entrance to the place to which the notice relates.

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".

(Chapter XII.—Markets, Slaughter Houses, Trades and Occupations.)

Penalty for using unlicensed market or slaughter house.

205. Whoever, knowing that any market or slaughter house has been opened to the public without a licence having been obtained therefor when such licence is required by or under this Act, or that the licence granted therefor is for the time being suspended or that it has been cancelled, sells or exposes for sale any article in such market or slaughters any animal in such slaughter house, shall be punishable with fine which may extend to fifty rupees and in the case of a continuing offence, with an additional fine which may extend to five rupees for every day after the first during which the offence is continued.

Prohibition and restriction of use of slaughter houses.

206. *(1)* Where, in the opinion of the [1][Board] it is necessary on sanitary grounds so to do, it may, by public notice, prohibit for such period, not exceeding one month, as may be specified in the notice, or for such further period, not exceeding one month as it may specify by a like notice, the use of any private slaughter house specified in the notice, or the slaughter therein of any animal of any description so specified.

(2) A copy of every notice issued under sub-section *(1)* shall be conspicuously posted in the slaughter house to which it relates.

Power to inspect slaughter houses.

207. *(1)* Any servant of a [1][Board] authorised by order in writing in this behalf by the President of the Board [2]* * or the Health Officer may, if he has reason to believe that any animal has been, is being, or is about to be slaughtered in any place in contravention of the provisions of this Chapter, enter into and inspect any such place at any time, whether by day or by night.

(2) Every such order shall specify the place to be entered and the locality in which the same is situated and the period which shall not exceed seven days, for which the order is to remain in force.

Power to make bye-laws.

208. A [1][Board] may, with the approval of the [3][Central Government], make bye-laws consistent with this Act to provide for all or any of the following matters, namely:—

(a) the days on, and the hours during which any private market or private slaughter house may be kept open for use ;

(b) the regulation of the design, ventilation and drainage of such markets and slaughter houses, and the material to be used in the construction thereof ;

(c) the keeping of such markets and slaughter houses and lands and buildings appertaining thereto in a clean and sanitary condition, the removal of filth and refuse therefrom, and the supply therein of pure water and of a sufficient number of latrines and urinals for the use of persons using or frequenting the same ;

(d) the manner in which animals shall be stalled at a slaughter house ;

(e) the manner in which animals may be slaughtered ;

[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936)
ment Authority.

[2] The words " if any " rep. by s. 54, *ibid.*

[3] Subs. by the A. O. for " L. G. "

calling or occupation, and may regulate the hours and manner of transport within the cantonment of any specified articles intended for human consumption, and may contain any other conditions which the [1][Board] thinks fit to impose in accordance with bye-laws made under this Act.

General Provisions.

Power to vary licence.

212. If a [1][Board] is satisfied that any place used under a licence granted under this Chapter is a nuisance or is likely to be dangerous to life, health or property, the [1][Board] may, by notice in writing, require the owner, lessee or occupier thereof to discontinue the use of such place or to effect such alterations, additions, or improvements as will, in the opinion of the [1][Board], render it no longer a nuisance or dangerous.

Carrying on trade, etc., without licence or in contravention of section 212.

213. Whoever carries on any trade, calling or occupation for which a licence is required without obtaining a licence therefor or while the licence therefor is suspended or after the same has been cancelled, and whoever, after receiving a notice under section 212, uses or allows to be used any building or place in contravention thereof, shall be punishable with fine which may extend to two hundred rupees and, in the case of a continuing offence, with an additional fine which may extend to forty rupees for every day after the first during which the offence is continued.

Feeding animals on dirt, etc.

214. *Whoever feeds or allows to be fed on filthy or deleterious substances* any animal, which is kept for the purpose of supplying milk to, or which is intended to be used as food for, the inhabitants of a cantonment or allows it to graze in any place in which grazing has, for sanitary reasons, been prohibited by public notice by the [1][Board] shall be punishable with fine which may extend to fifty rupees.

Entry, Inspection and Seizure.

Powers of entry and seizure.

215. (*1*) The President or the Vice-President [2]* * the Executive Officer, the Health Officer, the Assistant Health Officer, or any other officer or servant of a [1][Board] authorised by it in writing in this behalf,—

(*a*) may at any time enter into any market, building, shop, stall or other place in the cantonment for the purpose of inspecting, and may inspect, any animals, article or thing intended for human food or drink or for medicine, whether exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale, or of preparation for sale, or any utensil or vessel for preparing, manufacturing or containing any such article, or thing, and may enter into and inspect any place used as a slaughter-house and may examine any animal or article therein ;

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[1] Subs. by s. 69 of the *Cantonments (Amendment)* Act, 1936 (24 of 1936) for " Cantonment Authority ".

[2] The words " of a Board " rep. by s. 56, *ibid.*

(*Chapter XII —Markets, Slaughter Houses, Trades and Occupations*)

(*b*) may seize any such animal, article or thing which appears to him to be diseased, or unwholesome or unfit for human food or drink or medicine, as the case may be, or to be adulterated or to be not what it is represented to be, or any such utensil or vessel which is of such a kind or in such a state as to render any article prepared, manufactured or contained therein unwholesome or unfit for human food or for medicine, as the case may be

(*2*) Any article seized under sub section (*1*) which is of a perishable nature may, under the orders of the Health Officer or the Assistant Health Officer, forthwith be destroyed if, in his opinion, it is diseased, unwholesome or unfit for human food, drink or medicine, as the case may be

(*3*) Every animal, article, utensil vessel or other thing seized under sub section (*1*) shall, if it is not destroyed under sub section (*2*) be taken before a Magistrate

(*4*) The owner or person in possession, at the time of seizure under sub section (*1*), of any animal or carcase which is diseased or of any article or thing which is unwholesome or unfit for human food, drink or medicine as the case may be, or is adulterated or is not what it is represented to be, or of any utensil or vessel which is of such kind or in such state as is described in clause (*b*) of sub section (*1*), shall be punishable with fine which may extend to one hundred rupees, and the animal, article, utensil, vessel or other thing shall be liable to be forfeited to the [1][Board] or to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for the preparation of food, drink or medicine, as the case may be

Explanation I—If any such article, having been exposed or stored in, or brought to, any place mentioned in sub section (*1*) for sale as ghee, contains any substance not exclusively derived from milk, it shall be deemed, for the purposes of this section, to be an article which is not what it is represented to be

Explanation II—Meat subjected to the process of blowing shall be deemed to be unfit for human food

Explanation III—The article of food or drink shall not be deemed to be other than what it is represented to be merely by reason of the fact that there has been added to it some substance not injurious to health

Provided that—

(*a*) such substance has been added to the article because the same is required for the preparation or production thereof as an article of commerce in a state fit for carriage or consumption and not fraudulently to increase the bulk, weight or measure of the food or drink or conceal the inferior quality thereof, or

[1] Subs by s 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936), for "Cantonment Authority

(*b*) in the process of production, preparation or conveyance of such article of food or drink, the extraneous substance has unavoidably become intermixed therewith, or

(*c*) the owner or person in possession of the article has given sufficient notice by means of a label distinctly and legibly written or printed thereon or therewith, or by other means of a public description, that such substance has been added, or

(*d*) such owner or person has purchased the article with a written warranty that it was of a certain nature, substance and quality and had no reason to believe that it was not of such nature, substance and quality, and has exposed it or hawked it about or brought it for sale in the same state and by the same description as that in and by which he purchased it.

Import of Cattle and Flesh.

Import of cattle and flesh.

216. (*1*) No person shall, without the permission in writing of the [1][Board], bring into a cantonment any animal intended for human consumption, or the flesh of any animal slaughtered outside the cantonment otherwise than in a slaughter-house maintained by the Government or the [1][Board].

(*2*) Any animal or flesh brought into a cantonment in contravention of sub-section (*1*) may be seized by the Executive Officer or by any servant of the [1][Board] and sold or otherwise disposed of as the [1][Board] may direct, and, if it is sold, the sale-proceeds may be credited to the cantonment fund.

(*3*) Whoever contravenes the provisions of sub-section (*1*) shall be punishable with fine which may extend to fifty rupees.

(*4*) Nothing in this section shall be deemed to apply to cured or preserved meat or to animals driven or meat carried through a cantonment for consumption outside thereof, or to meat brought into a cantonment by any person for his immediate domestic consumption:

Provided that the [1][Board] may, by public notice, direct that the provisions of this section shall apply to cured or preserved meat of any specified description or brought from any specified place.

CHAPTER XIII.

Water-supply, Drainage and Lighting.

Water-supply.

Maintenance of water-supply.

217. (*1*) In every cantonment where a sufficient supply of pure water for domestic use does not already exist, the [1][Board] shall provide or arrange for the provision of such a supply.

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".

(*Chapter XIII.—Water-supply, Drainage and Lighting.*)

(2) The [1][Board] shall, as far as possible, make adequate provision that such supply shall be continuous throughout the year, and that the water shall be at all times pure and fit for human consumption.

218. (*1*) The [1][Board] may, with the previous sanction of the [2][Central Government], by public notice, declare any lake, stream, spring, well, tank, reservoir or other source, whether within or without the limits of the cantonment (other than a source of water-supply under the control of the [3][Military Engineer] Services or the Public Works Department) from which water is or may be made available for the use of the public in the cantonment to be a source of public water-supply. Control over sources of public water-supply.

(2) Every such source shall be under the control of the [1][Board].

219. The [1][Board] may, by notice in writing, require the owner or any person having the control of any source of public water-supply which is used for drinking purposes— Power to require maintenance or closing of private source of public drinking water-supply.

(*a*) to keep the same in good order and to clear it from time to time of silt, refuse and decaying vegetation, or

(*b*) to protect the same from contamination in such manner as the [1][Board] may direct, or

(*c*) if the water therein is proved to the satisfaction of the [1][Board] to be unfit for drinking purposes, to take such measures as may be specified in the notice to prevent the public from having access to or using such water :

Provided that, in the case of a well, such person as aforesaid may, instead of complying with the notice, signify in writing his desire to be relieved of all responsibility for the proper maintenance of the well and his readiness to place it under the control and supervision of the [1][Board] for the use of the public, and, if he does so, he shall not be bound to carry out the requisition, and the [1][Board] shall undertake the control and supervision of the well.

220. (*1*) The [1][Board] may permit the owner, lessee or occupier of any building or land to connect the building or land with a source of public water-supply by means of communication pipes of such size and description as it may prescribe for the purpose of obtaining water for domestic use. Supply of water.

(2) The occupier of every building so connected with the water-supply shall be entitled to have for domestic use, in return for the water tax, if any, such quantity of water as the [1][Board] may determine.

(3) All water supplied in excess of the quantity to which such supply is limited under sub-section (2) and, in a cantonment in which a water tax

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".

[2] Subs. by the A. O. for "L. G."

[3] Subs. by s. 9 of the Cantonments (Amendment) Act, 1925 (7 of 1925) for "Military Works".

is not imposed, all water supplied under this section, shall be paid for at such rate as the [1][Board] may fix.

(4) The supply of water for domestic use shall not be deemed to include any supply—

(a) for animals or for washing vehicles where such animals or vehicles are kept for sale or hire;

(b) for any trade, manufacture or business;

(c) for fountains, swimming baths or any ornamental or mechanical purpose;

(d) for gardens or for purposes of irrigation;

(e) for making or watering roads or paths; or

(f) for building purposes.

Power to require water supply to be taken.

221. If it appears to the [1][Board] that any building or land in the cantonment is without a proper supply of pure water, the [1][Board] may, by notice in writing, require the owner, lessee or occupier of the building or land to obtain from a source of public water-supply such quantity of water as is adequate to the requirements of the persons usually occupying or employed upon the building or land, and to provide communication pipes of the prescribed size and description, and to take all necessary steps for the above purposes.

Supply of water under agreement.

222. (1) The [1][Board] may, by agreement, supply, from any source of public water-supply, the owner, lessee or occupier of any building or land in the cantonment with any water for any purpose, other than a domestic purpose, on such terms and conditions, consistent with this Act and the rules and bye-laws made thereunder, as may be agreed upon between the [1][Board] and such owner, lessee or occupier.

(2) The [1][Board] may withdraw such supply or curtail the quantity thereof at any time if it should appear necessary to do so for the purpose of maintaining sufficient supply of water for domestic use by inhabitants of the cantonment.

Board not liable for failure of supply.

223. Notwithstanding any obligation imposed on [2][Boards] under this Act, a [1][Board] shall not be liable to any forfeiture, penalty or damages for failure to supply water or for curtailing the quantity thereof if the failure or curtailment, as the case may be, arises from accident or from drought or other unavoidable cause unless, in the case of an agreement for the supply of water under section 222, the [1][Board] has made express provision for forfeiture, penalty or damages in the event of such failure or curtailment.

Conditions of universal application.

224. Notwithstanding anything hereinbefore contained or contained in any agreement under section 222, the supply of water by a [1][Board] to any

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".

[2] Subs. by s. 69, *ibid.*, for "Cantonment Authorities".

(Chapter XIII —Water supply, Drainage and Lighting)

building or land shall be, and shall be deemed to have been, granted subject to the following conditions, namely —

(*a*) the owner, lessee or occupier of any building or land in or on which water supplied by the [1][Board] is wasted by reason of the pipes, drains or other works being out of repair shall, if he has knowledge thereof, give notice of the same to such officer as the [1][Board] may appoint in this behalf,

(*b*) the Executive Officer or any other officer or servant of the [1][Board] authorised by it in writing in this behalf may enter into or on any premises supplied with water by the [1][Board] for the purpose of examining all pipes taps works and fittings connected with the supply of water and of ascertaining whether there is any waste or misuse of such water

(*c*) the [1][Board] may, after giving notice in writing, cut off the connection between any source of public water supply and any building or land to which water is supplied for any purpose therefrom, or turn off such supply if—

(i) the owner or occupier of the building or land neglects to pay the water tax or other charges connected with the water supply within one month from the date on which such tax or charge falls due for payment,

(ii) the occupier refuses to admit the Executive Officer or other authorised officer or servant of the [1][Board] into the building or land for the purpose of making any examination or inquiry authorised by clause (*b*) or prevents the making of such examination or inquiry,

(iii) the occupier wilfully or negligently misuses or causes waste of water

(iv) the occupier wilfully or negligently injures or damages his meter or any pipe or tap conveying water from the waterworks,

(v) any pipes, taps, works or fittings connected with the supply of water to the building or land are found, on examination by the Executive Officer to be out of repair to such an extent as to cause a waste of water,

(*d*) the expense of cutting off the connection or of turning off the water in any case referred to in clause (c) shall be paid by the owner or occupier of the building or land,

(*e*) no action taken under or in pursuance of clause (c) shall relieve any person from any penalty or liability which he may otherwise have incurred

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[1] Subs. by s 69 of the Cantonments (Amendment) Act 1936 (24 of 1936) for Cantonment Authority

(Chapter XIII.—Water-supply, Drainage and Lighting.)

Supply to persons outside cantonment.

225. A [1][Board] may allow any person not residing within the limits of the cantonment to take or be supplied with water for any purpose from any source of public water-supply on such terms as it may prescribe, and may at any time withdraw or curtail such supply.

Penalty.

226. Whoever—

(a) uses for other than domestic purposes any water supplied by a [1][Board] for domestic use, or

(b) where water is supplied by agreement with a [1][Board] for a specified purpose, uses that water for any other purpose,

shall be punishable with fine which may extend to fifty rupees, and the [1][Board] shall be entitled to recover from him the price of the water misused.

Water, Drainage and other Connections.

Power of Board to lay wires, connections, etc.

227. A [1][Board] may carry any cable, wire, pipe, drain, sewer or channel of any kind,—

(a) for the purpose of carrying out, establishing or maintaining any system of water-supply, lighting, drainage, or sewerage, through, across, under or over any road or street, or any place laid out or intended as a road or street, or, after giving reasonable notice in writing to the owner or occupier, into, through, across, under or over any land or building, or up the side of any building, situated within the cantonment, or

(b) for the purpose of supplying water or of the introduction or distribution of outfall of water or for the removal or outfall of sewage, after giving reasonable notice in writing to the owner or occupier, into, through, across, under or over any land or building, or up the side of any building, situated outside the cantonment;

and may at all times do all acts and things which may be necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain, sewer or channel in an effective state for the purpose for which the same may be used or is intended to be used:

Provided that no nuisance shall be caused in excess of what is reasonably necessary for the proper execution of the work:

Provided, further, that compensation shall be payable to the owner or occupier for any damage sustained by him which is directly occasioned by the carrying out of any such operation.

Wires, etc., laid above surface of ground.

228. In the event of any cable, wire, pipe, drain, sewer or channel being laid or carried above the surface of any land or through, over or up the side of any building, such cable, wire, pipe, drain, sewer or channel shall be so laid or carried as to interfere as little as possible with the rights of the owner

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".

(Chapter XIII —Water supply, Drainage and Lighting)

or occupier to the due enjoyment of such land or building, and compensation shall be payable by the [1][Board] in respect of any substantial interference with the right to any such enjoyment

229 No person shall, for any purpose whatsoever, without the permission of the [1][Board], at any time make or cause to be made any connection or communication with any cable, wire, pipe drain, sewer or channel constructed or maintained by, or vested in, a [1][Board] Connection with main not to be made without permission.

230. A [1][Board] may prescribe the size of the ferrules to be used for the supply of gas, if any, and may establish meters or other appliances for the purpose of testing the quantity of any water, or the quantity or quality of any gas supplied to any premises by the [1][Board] Power to prescribe ferrules and to establish meters, etc

231. The ferrules, communication pipes connections meters stand pipes and all fittings thereon or connected therewith leading from water mains or from pipes, drains, sewers or channels into any house or land to which water or gas is supplied by a [1][Board] and the pipes, fittings, and works inside any such house or within the limits of any such land, shall in all cases be [2][installed or] executed subject to the inspection and to the satisfaction of the [1][Board] Power of inspection

232. A [1][Board] may fix the charges to be made for the establishment by them or through their agency of communications from and connections with, mains, or pipes for the supply of water or gas, or for meters or other appliances for testing the quantity or quality thereof supplied, and may levy such charges accordingly Power to fix rates and charges

Application of this Chapter to Government Water supplies

233. *(1)* Where in any cantonment there is a water supply under the control of the [3][Military Engineer] Services or the Public Works Department, the Officer of the [3][Military Engineer] Services or of the Public Works Department, as the case may be in charge of such water supply (hereinafter in [4][this Chapter] referred to as the Officer) may publish in the cantonment in such manner as he thinks fit a notice declaring that any lake, stream, spring, well, tank, reservoir or other source, whether within or without the limits of the cantonment (other than a source of public water supply) under the control of the [1][Board] is a source of public water supply and may, for the purpose of keeping any such source in good order or of protecting it from contamination or from use, require the [1][Board] to exercise any power conferred upon that Authority[5] by section 219 Government water supply

(2) In the case of any water supply such as is referred to in sub section *(1)*, the following provisions of this Chapter, namely, the provisions of sections

[1] *See* footnote 1 on pre page

[2] Ins by s 2 and Sch I of the Repealing and Amending Act 1930 (8 of 1930)

[3] Subs by s 9 of the Cantonments (Amendment) Act, 1925 (7 of 1925) for Military Works

[4] Subs by s 57 of the Cantonments (Amendment) Act 1936 (24 of 1936) for this section and in section 234

[5] *Sic* The reference is obviously to the Board

220, 222, 223, 224, 226, 227, 228, 229, 230, 231, and 232 shall, as far as may be, be applicable in respect of the supply of water to the cantonment, and for the purpose of such application references to the [1][Board] shall be construed as references to the Officer, and references to the Executive Officer or other officer or servant of the [1][Board] shall be construed as references to such person as may be authorised in this behalf by the Officer.

Recovery of charges.

234. In any case in which the provisions of section 233 apply [2][and in which the Board is not receiving a bulk supply of water under section 234A,] the water-tax, if any, imposed in the cantonment and all other charges arising out of the supply of water which may be imposed under the provisions of this Chapter as applied by section 233 shall be recovered by the [1][Board], and all monies so recovered, or such proportion thereof as the [3][Central Government] may in each case determine, shall be paid by the [1][Board] to the Officer.

Supply of water from Government water supply to the Board.

[4][**234A.** (*1*) Where in any cantonment there is a water-supply such as is referred to in sub-section (*1*) of section 233, the Board may receive from the Military Engineer Services or the Public Works Department, as the case may be, at such point or points as may be agreed upon between the Board and the Officer, a supply of water adequate to the requirements for domestic use of all persons in the cantonment other than entitled consumers.

(*2*) Any supply of water received under sub-section (*1*) shall be a bulk supply, and the Board shall make such payments to the Officer for all water so received as may be agreed upon between the Board and the Officer, or, in default of such agreement, as may be determined by the [5][Central Government] to be reasonable having regard to the actual cost of supplying the water in the cantonment and the rate charged for water in any adjacent municipality:

Provided that, notwithstanding anything contained in this Act, the Board shall not charge for the supply to persons in the cantonment of water received by the Board under this section a rate calculated to produce more than the sum of the payments made to the Officer for water received and the actual cost of the supply thereof by the Board to consumers.

(*3*) If any dispute arises between the Board and the Officer regarding the amount of water adequate to the requirements of persons in the cantonment other than entitled consumers, the dispute shall be referred to the [5][Central Government] whose decision shall be final.

Functions of the Board in relation to distribution of bulk supply.

234B. Where under the provisions of sub-section (*1*) of section 234A a bulk supply of water is received by the Board, the Board shall be solely responsible for the supply of water to all persons in the cantonment other than

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".
[2] Ins. by s. 58, *ibid*.
[3] Subs. by the A. O. for "L. G."
[4] Ss. 234A and 234B were ins. by s. 59 of Act 24 of 1936.
[5] Subs. by the A. O. for "G. G. in C.".

entitled consumers; and the provisions of this Act shall apply as if such bulk supply were a source of public water-supply under the control of the Board and as if the communications from and connections with such bulk supply for the purpose of supplying water to such persons were a system of water-supply established and maintained by the Board.]

CHAPTER XIV.

REMOVAL AND EXCLUSION FROM CANTONMENTS AND SUPPRESSION OF SEXUAL IMMORALITY.

Power to remove brothels and prostitutes.

235. The [1][Officer Commanding the station] may, on receiving information that any building in the cantonment is used as a brothel or for purposes of prostitution, by order in writing setting forth the substance of the information received, summon the owner, lessee, tenant or occupier of the building to appear before him either in person or by an authorised agent, and, if the [2][Officer Commanding the station] is then satisfied as to the truth of the information, he may, by order in writing, direct the owner, lessee, tenant or occupier, as the case may be, to discontinue such use of the building within such period as may be specified in the order.

Penalty for loitering and importuning for purposes of prostitution.

236. (*1*) Whoever in a cantonment loiters for the purpose of prostitution or importunes any person to the commission of sexual immorality, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to two hundred rupees.

(*2*) No prosecution for an offence under this section shall be instituted except on the complaint of the person importuned, or of a military officer in whose presence the offence was committed, or of a member of the Military or Air Force Police, being employed in the cantonment and authorised in this behalf by the [2][Officer Commanding the station], in whose presence the offence was committed, or of a police officer not below the rank of a sub-inspector [3][or a sergeant] who is employed in the cantonment and authorised in this behalf by the [2][Officer Commanding the station] [3][with the concurrence of the District Magistrate].

Removal of lewd persons from cantonment.

237. If the [1][Officer Commanding the station] is, after such inquiry as he thinks necessary, satisfied that any person residing in or frequenting the

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[3] Ins. by s. 7 of the Cantonments (Amendment) Act, 1931 (7 of 1931).

cantonment is a prostitute or has been convicted of an offence under section 236, or of the abetment of such an offence, he may cause to be served on such person an order in writing requiring such person to remove from the cantonment within such time as may be specified in the order, and prohibiting such person from re-entering it without the permission in writing of the [1][Officer Commanding the station.]

Removal and exclusion from cantonment of disorderly persons.

238. *(1)* A Magistrate of the first class, having jurisdiction in a cantonment, on receiving information that any person residing in or frequenting the cantonment—

(*a*) is a disorderly person who has been convicted more than once of gaming or who keeps or frequents a common gaming house, a disorderly drinking shop or a disorderly house of any other description, or

(*b*) has been convicted more than once, either within the cantonment or elsewhere, of an offence punishable under Chapter XVII of the Indian Penal Code, or XLV

(c) has been convicted, either within the cantonment or elsewhere, of any offence punishable under section 156 of the Army Act, or 44 & c. 58

(*d*) has been ordered under Chapter VIII of the Code of Criminal Procedure, 1898, either within the cantonment or elsewhere, to execute a bond for his good behaviour, V of

may record in writing the substance of the information received, and may issue a summons to such person requiring such person to appear and show cause why he should not be required to remove from the cantonment and be prohibited from re-entering it.

(2) Every summons issued under sub-section *(1)* shall be accompanied by a copy of the record aforesaid, and the copy shall be served along with the summons on the person against whom the summons is issued.

(3) The Magistrate shall, when the person so summoned appears before him, proceed to inquire into the truth of the information received and take such further evidence as he thinks fit, and if, upon such inquiry, it appears to him that such person is a person of any kind described in sub-section *(1)* and that it is necessary for the maintenance of good order in the cantonment that such person should be required to remove therefrom and be prohibited from re-entering the cantonment, the Magistrate shall report the matter to the [1][Officer Commanding the station], and, if the [1][Officer Commanding the station] so directs, shall cause to be served on such person an order in writing requiring him to remove from the cantonment within such time as may be specified in the order and prohibiting him from re-entering it without the permission in writing of the [1][Officer Commanding the station].

[1] Subs. by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925) for "Commanding Officer of the Cantonment".

(*Chapter XIV.—Removal and Exclusion from Cantonments and Suppression of Sexual Immorality.*)

Removal and exclusion from cantonment of seditious persons.

239. (*1*) If any person in a cantonment causes or attempts to cause or does any act which he knows is likely to cause disloyalty, disaffection or breaches of discipline amongst any portion of His Majesty's forces or is a person who, the [1][Officer Commanding the station] has reason to believe, is likely to do any such act the [1][Officer Commanding the station] may make an order in writing setting forth the reasons for the making of the same and requiring such person to remove from the cantonment within such time as may be specified in the order and prohibiting him from re entering it with out the permission in writing of the [1][Officer Commanding the station]

Provided that no order shall be made under this section against any person unless he has had a reasonable opportunity of being informed of the grounds on which it is proposed to make the order and of showing cause why the order should not be made

(*2*) Every order made under sub section (*1*) shall be sent to the Superin tendent of Police of the district, who shall cause a copy thereof to be served on the person concerned

(*3*) Upon the making of any order under sub section (*1*), the [1][Officer Commanding the station] shall forthwith send a copy of the same to the [2][Central Government]

(*4*) The [2][Central Government] may, of its own motion, and shall on application made to it in this behalf within one month of the date of the order by the person against whom the order has been made, call upon the District Magistrate to make, after such inquiry as the [2][Central Govern ment] may prescribe, a report regarding the justice of the order and the necessity therefor At every such inquiry the person against whom the order has been made shall be given an opportunity of being heard in his own defence

(*5*) The [2][Central Government] may, at any time after the receipt of a copy of an order sent under sub section (*3*), or where a report has been called for under sub section (*4*), on receipt of that report, if it is of opinion that the order should be varied or rescinded, [3][make such order thereon as it thinks fit]

(*6*) Any person who has been excluded from a cantonment by an order made under this section may, at any time after the expiry of one month from the date thereof, apply to the Officer Commanding in Chief, the Command for the rescission of the same and, on such application being made, the said Officer may, after making such inquiry, if any, as he thinks necessary, either reject the application or rescind the order

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[1] Subs by s 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925) for " Commanding Officer of the Cantonment

[2] Subs by the A O for ' L. C

[3] Subs by the A O for " refer the case to the G G in C, who shall pass such orders thereon as he thinks fit '

(Chapter XIV.—Removal and Exclusion from Cantonments and Suppression of Sexual Immorality. Chapter XV.—Powers, Procedure, Penalties and Appeals.)

Penalty.

240. Whoever—

(*a*) fails to comply with an order issued under this Chapter within the period specified therein, or, whilst an order prohibiting him from re-entering a cantonment without permission is in force, re-enters the cantonment without such permission, or

(*b*) knowing that any person has, under this Chapter, been required to remove from the cantonment and has not obtained the requisite permission to re-enter it, harbours or conceals such person in the cantonment,

shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing offence, with an additional fine which may extend to twenty rupees for every day after the first during which he has persisted in the offence.

CHAPTER XV.

POWERS, PROCEDURE, PENALTIES AND APPEALS.

Entry and Inspection.

Powers of entry.

241. It shall be lawful for the President or the Vice-President of a Board, or the Executive Officer, or the Health Officer or Assistant Health Officer, or any person specially authorised by the Health Officer or the Assistant Health Officer, or for any other person authorised by general or special order of a [1][Board] in this behalf, to enter into or upon any building or land with or without assistants or workmen in order to make any inquiry, inspection, measurement, valuation or survey, or to execute any work, which is authorised by or under this Act or which it is necessary to make or execute for any of the purposes or in pursuance of any of the provisions of this Act or of any rule, bye-law or order made thereunder :

Provided that nothing in this section shall be deemed to confer upon any person any power such as is referred to in section 207 or section 215 or to authorise the conferment upon any person of any such power.

Powers of inspection by member of a Board.

242. With the previous sanction of the President, any member of a Board may inspect any work or institution constructed or maintained, in whole or part, at the expense of the Board, and any register, book, accounts or other document belonging to, or in the possession of, the Board.

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for " Cantonment Authority ".

(Chapter XV.—Powers, Procedure, Penalties and Appeals)

Power of inspection, etc

243. (*1*) A [1][Board] may, by general or special order, authorise any rson—

(*a*) to inspect any drain, privy, latrine, urinal, cesspool, pipe, sewer or channel in or on any building or land in the cantonment, and, in his discretion, to cause the ground to be opened for the purpose of preventing or removing any nuisance arising from the drain, privy, latrine, urinal, cesspool pipe, sewer or channel, as the case may be ,

(*b*) to examine works under construction in the cantonment, to take levels or to remove, test, examine, replace or read any meter.

(*2*) If, on such inspection, the opening of the ground is found to be neces ry for the prevention or removal of a nuisance, the expenses thereby in irred shall be paid by the owner or occupier of the land or building, but if is found that no nuisance exists or but for such opening would have arisen e ground or portion of any building, drain, or other work opened, injured removed for the purpose of such inspection shall be filled in, reinstated, or ade good, as the case may be, by the [1][Board]

Power to enter land adjoining land where work is in progress.

244. (*1*) The Executive Officer of a cantonment may, with or without sistants or workmen enter on any land within fifty yards of any work ithorised by or under this Act for the purpose of depositing thereon any il, gravel, stone or other materials or of obtaining access to such work, or r any other purpose connected with the carrying on of the same

(*2*) The Executive Officer shall before entering on any land under subction (*1*), give the occupier or, if there is no occupier the owner not less ian three days' previous notice in writing of his intention to make such itry, and shall state the purpose thereof, and shall, if so required by the cupier or owner, fence off so much of the land as may be required for such irpose

(*3*) The Executive Officer shall, in exercising any power conferred by this ction, do as little damage as may be, and compensation shall be payable the [1][Board] to the owner or occupier of such land, or to both, for any such image whether permanent or temporary

Breaking into premises

245. It shall be lawful for any person, authorised by or under this Act make any entry into any place, to open or cause to be opened any door, te or other barrier—

(*a*) if he considers the opening thereof necessary for the purpose of such entry , and

(*b*) if the owner or occupier is absent, or being present refuses to open such door, gate or barrier

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[1] Subs. by s. 60 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority"

(*Chapter XV.—Powers, Procedure, Penalties and Appeals.*)

Entry to be made in the day time.

246. Save as otherwise expressly provided in this Act, no entry authorised by or under this Act shall be made except between the hours of sunrise and sunset.

Owner's consent ordinarily to be obtained.

247. Save as otherwise expressly provided in this Act, no building or land shall be entered without the consent of the occupier, or if there is no occupier, of the owner thereof, and no such entry shall be made without giving the said occupier or owner, as the case may be, not less than four hours' written notice of the intention to make such entry :

Provided that no such notice shall be necessary if the place to be inspected is a stable for horses or a shed for cattle, or a latrine, privy or urinal, or a work under construction.

Regard to be had to social and religious usages.

248. When any place used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious customs and usages of the occupants of the place entered, and no apartment in the actual occupancy of a female shall be entered or broken open until she has been informed that she is at liberty to withdraw and every reasonable facility has been afforded to her for withdrawing.

Penalty for obstruction.

249. Whoever obstructs or molests any person employed by a [1][Board], who is not a public servant within the meaning of section 21 of the Indian Penal Code or any person with whom the [1][Board] has lawfully contracted, in the execution of his duty or of anything which he is empowered or required to do by virtue or in consequence of any of the provisions of this Act or of any rule, bye-law or order made thereunder, or in fulfilment of his contract, as the case may be, shall be punishable with fine which may extend to one hundred rupees.

Powers and Duties of Police Officers.

Arrest without warrant.

250. Any member of the police force employed in a cantonment may, without a warrant, arrest any person committing in his view a breach of any of the provisions of this Act which are specified in Schedule IV :

Provided that—

(*a*) in the case of the breach of any such provision as is specified in Part B of Schedule IV, no person shall be so arrested who consents to give his name and address, unless there is reasonable ground for doubting the accuracy of the name or address so given, the burden of proof of which shall lie on the arresting officer, and no person so arrested shall be detained after his name and address have been ascertained ; and

(*b*) no person shall be so arrested for an offence under section 236 except—

(i) at the request of the person importuned or of a military officer in whose presence the offence was committed ; or

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for " Cantonment Authority ".

(ii) by or at the request of a member of the Military or Air Force Police, who is employed in the cantonment and authorised in this behalf by the [1][Officer Commanding the station], and in whose presence the offence was committed or by or at the request of any police officer not below the rank of a sub inspector who is employed in the cantonment and authorised in this behalf by the [1][Officer Commanding the station].

251. It shall be the duty of all police officers to give immediate information to the [2][Board] of the commission of any offence against the provisions of this Act or of any rule or bye law made thereunder, and to assist all cantonment officers and servants in the exercise of their lawful authority. *Duties of police officers.*

Notices

252. Where any notice, order or requisition made under this Act or any rule or bye law made thereunder requires anything to be done for the doing of which no time is fixed in this Act or in the rule or bye law, the notice, order or requisition shall specify a reasonable time for doing the same. *Notices to fix reasonable time.*

253. Every notice, order or requisition issued by a [2][Board] under this Act or any rule or bye law made thereunder shall be signed— *Authentication and validity of notices issued by Board.*

(a) [3]* * * * either by the President of the Board or by the Executive Officer, or, [4]* * * *

(b) by the members of any committee especially authorised by the [2][Board] in this behalf.

254. (1) Every notice, order or requisition issued under this Act or any rule or bye law made thereunder shall, save as otherwise expressly provided, be served or presented— *Service of notice, etc.*

(a) by giving or tendering the notice, order or requisition, or sending it by post, to the person for whom it is intended, or

(b) if such person cannot be found, by affixing the notice, order or requisition on some conspicuous part of his last known place of abode or business, if within the cantonment, or by giving or tendering the notice, order or requisition to some adult male member or servant of his family, or by causing it to be affixed on some conspicuous part of the building or land, if any, to which it relates.

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[1] Subs by s 14 of the Cantonments (Amendment) Act 1925 (7 of 1925) for "Commanding Officer of the Cantonment".

[2] Subs by s 61 of the Cantonments (Amendment) Act 1936 (24 of 1936) for "Cantonment Authority".

[3] The words "where there is a Board" rep by s 60 ibid.

[4] The words "where there is no Board, by the Executive Officer" or rep by s 60 ibid.

(*Chapter XV.—Powers, Procedure, Penalties and Appeals.*)

(2) When any such notice, order or requisition is required or permitted to be served upon an owner, lessee or occupier of any building or land, it shall not be necessary to name the owner, lessee or occupier therein, and the service thereof shall, save as otherwise expressly provided, be effected either—

(*a*) by giving or tendering the notice, order or requisition, or sending it by post, to the owner, lessee or occupier, or, if there are more owners, lessees or occupiers than one, on any one of them; or

(*b*) if no such owner, lessee or occupier can be found, by giving or tendering the notice, order or requisition to the authorised agent, if any, of any such owner, lessee or occupier, or to an adult male member or servant of the family of any such owner, lessee or occupier, or by causing it to be affixed on some conspicuous part of the building or land to which it relates.

(3) When the person on whom a notice, order or requisition is to be served is a minor, service upon his guardian or upon an adult male member or servant of his family shall be deemed to be service upon the minor.

Method of giving notice.

255. Every notice which, by or under this Act, is to be given or served as a public notice or as a notice which is not required to be given to any individual therein specified shall, save as otherwise expressly provided, be deemed to have been sufficiently given or served if a copy thereof is affixed in such conspicuous part of the office of the [1][Board] or in such other public place, during such period, or is published in such local newspaper or in such other manner, as the [1][Board] may direct.

Powers of Board in case of non-compliance with notice, etc.

256. In the event of non-compliance with the terms of any notice, order or requisition issued to any person under this Act, or any rule or bye-law made thereunder, requiring such person to execute any work or to do any act, it shall be lawful for the [1][Board], whether or not the person in default is liable to punishment for such default or has been prosecuted or sentenced to any punishment therefor, after giving notice in writing to such person, to take such action or such steps as may be necessary for the completion of the act or work required to be done or executed by him, and all the expenses incurred on such account shall be recoverable by the [1][Board].

Recovery of Money.

Liability of occupier to pay in default of owner.

257. (*1*) If any such notice as is referred to in section 256 has been given to any person in respect of property of which he is the owner, the [1][Board] may require any occupier of such property or of any part thereof to pay to it, instead of to the owner, any rent payable by him in respect of such property, as it falls due, up to the amount recoverable from the owner under section 256 :

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".

Provided that, if the occupier, on application made to him by the [1][Board] refuses truly to disclose the amount of his rent or the name or address of the person to whom it is payable, the [1][Board] may recover from the occupier the whole amount recoverable under section 256.

(*2*) Any amount recovered from an occupier instead of from an owner under sub-section (*1*) shall, in the absence of any contract between the owner and the occupier to the contrary, be deemed to have been paid to the owner.

Relief to agents and trustees.

258. (*1*) Where any person, by reason of his receiving the rent of immoveable property as an agent or trustee, or of his being as an agent or trustee the person who would receive the rent if the property were let to a tenant, would under this Act be bound to discharge any obligation imposed on the owner of the property for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default might have had, funds in his hands belonging to the owner sufficient for the purpose.

(*2*) The burden of proving any fact entitling an agent or trustee to relief under sub-section (*1*) shall lie upon him.

(*3*) Where any agent or trustee has claimed and established his right to relief under this section, the [1][Board] may, by notice in writing, require him, to apply to the discharge of such obligation as aforesaid the first monies which may come to his hands on behalf, or for the use, of the owner, and, on failure to comply with the notice, he shall be deemed to be personally liable to discharge the obligation.

Method of recovery.

[2][**259.** (*1*) Notwithstanding anything elsewhere contained in this Act, arrears of any tax and any other money recoverable by a Board under this Act may be recovered together with the cost of recovery either by suit or, on application to a Magistrate having jurisdiction in the cantonment or in any place where the person from whom such tax or money is recoverable may for the time being be residing, by the distress and sale of any moveable property of, or standing timber, growing crops or grass belonging to, such person which is within the limits of such Magistrate's jurisdiction, and shall, if payable by the owner of any property as such, be a charge on the property until paid:

Provided that the tools of artisans shall be exempt from such distress or sale.

(*2*) An application to a Magistrate under sub-section (*1*) shall be in writing and shall be signed by the President or Vice-President of the Board or by the Executive Officer, but shall not require to be personally presented.]

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[1] Subs. by s. 60 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".

[2] Subs. by s. 61, *ibid.* for the original section.

(*Chapter XV.—Powers, Procedure, Penalties and Appeals.*)

(2) When any such notice, order or requisition is required or permitted to be served upon an owner, lessee or occupier of any building or land, it shall not be necessary to name the owner, lessee or occupier therein, and the service thereof shall, save as otherwise expressly provided, be effected either—

(a) by giving or tendering the notice, order or requisition, or sending it by post, to the owner, lessee or occupier, or, if there are more owners, lessees or occupiers than one, on any one of them; or

(b) if no such owner, lessee or occupier can be found, by giving or tendering the notice, order or requisition to the authorised agent, if any, of any such owner, lessee or occupier, or to an adult male member or servant of the family of any such owner, lessee or occupier, or by causing it to be affixed on some conspicuous part of the building or land to which it relates.

(3) When the person on whom a notice, order or requisition is to be served is a minor, service upon his guardian or upon an adult male member or servant of his family shall be deemed to be service upon the minor.

Method of giving notice.

255. Every notice which, by or under this Act, is to be given or served as a public notice or as a notice which is not required to be given to any individual therein specified shall, save as otherwise expressly provided, be deemed to have been sufficiently given or served if a copy thereof is affixed in such conspicuous part of the office of the [1][Board] or in such other public place, during such period, or is published in such local newspaper or in such other manner, as the [1][Board] may direct.

Powers of Board in case of non-compliance with notice, etc.

256. In the event of non-compliance with the terms of any notice, order or requisition issued to any person under this Act, or any rule or bye-law made thereunder, requiring such person to execute any work or to do any act, it shall be lawful for the [1][Board], whether or not the person in default is liable to punishment for such default or has been prosecuted or sentenced to any punishment therefor, after giving notice in writing to such person, to take such action or such steps as may be necessary for the completion of the act or work required to be done or executed by him, and all the expenses incurred on such account shall be recoverable by the [1][Board].

Recovery of Money.

Liability of occupier to pay in default of owner.

257. (1) If any such notice as is referred to in section 256 has been given to any person in respect of property of which he is the owner, the [1][Board] may require any occupier of such property or of any part thereof to pay to it, instead of to the owner, any rent payable by him in respect of such property, as it falls due, up to the amount recoverable from the owner under section 256 :

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".

Provided that, if the occupier, on application made to him by the [1][Board], refuses truly to disclose the amount of his rent or the name or address of the person to whom it is payable, the [1][Board] may recover from the occupier the whole amount recoverable under section 256.

(*2*) Any amount recovered from an occupier instead of from an owner under sub section (*1*) shall, in the absence of any contract between the owner and the occupier to the contrary, be deemed to have been paid to the owner

258. (*1*) Where any person, by reason of his receiving the rent of immoveable property as an agent or trustee, or of his being as an agent or trustee the person who would receive the rent if the property were let to a tenant, would under this Act be bound to discharge any obligation imposed on the owner of the property for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default might have had, funds in his hands belonging to the owner sufficient for the purpose Relief to agents and trustees

(*2*) The burden of proving any fact entitling an agent or trustee to relief under sub section (*1*) shall lie upon him

(*3*) Where any agent or trustee has claimed and established his right to relief under this section, the [1][Board] may, by notice in writing, require him, to apply to the discharge of such obligation as aforesaid the first monies which may come to his hands on behalf, or for the use, of the owner, and, on failure to comply with the notice, he shall be deemed to be personally liable to discharge the obligation

[2][**259.** (*1*) Notwithstanding anything elsewhere contained in this Act, arrears of any tax and any other money recoverable by a Board under this Act may be recovered together with the cost of recovery either by suit or, on application to a Magistrate having jurisdiction in the cantonment or in any place where the person from whom such tax or money is recoverable may for the time being be residing, by the distress and sale of any moveable property of, or standing timber, growing crops or grass belonging to, such person which is within the limits of such Magistrate's jurisdiction, and shall, if payable by the owner of any property as such, be a charge on the property until paid Method of recovery

Provided that the tools of artisans shall be exempt from such distress or sale

(*2*) An application to a Magistrate under sub section (*1*) shall be in writing and shall be signed by the President or Vice President of the Board or by the Executive Officer, but shall not require to be personally presented]

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[1] Subs by s 69 of the Cantonments (Amendment) Act 1936 (24 of 1936) for "Cantonment Authority

[2] Subs by s 61, *ibid*, for the original section

(Chapter XV.—Powers, Procedure, Penalties and Appeals.)

Committees of Arbitration.

Application for a Committee of Arbitration.

260. In the event of any disagreement as to the liability of a [1][Board] to pay any compensation under this Act, or as to the amount of any compensation so payable, the person claiming such compensation may apply to the [1][Board] for the reference of the matter to a Committee of Arbitration, and the [1][Board] shall forthwith proceed to convene a Committee of Arbitration to determine the matter in dispute.

Procedure for convening Committee of Arbitration.

261. When a Committee of Arbitration is to be convened, the [1][Board] shall cause a public notice to be published stating the matter to be determined, and shall forthwith send copies of the order to the District Magistrate, and to the other party concerned, and shall, as soon as may be, nominate such members of the Committee, as it is entitled to nominate under section 262, and, by notice in writing, call upon the other persons who are entitled to nominate a member or members of the Committee to nominate such member or members in accordance with the provisions of that section.

Constitution of Committee of Arbitration.

262. (*1*) Every Committee of Arbitration shall consist of five members, namely :—

(*a*) a Chairman who shall be a person not in the service of the [2][Crown] or the [1][Board], and who shall be nominated by the [3][Officer Commanding the station] ;

(*b*) two persons nominated by the [1][Board] ; and

(*c*) two persons nominated by the other party concerned.

[4]* * * *

(*2*) If the [1][Board] or the other party concerned or the [3][Officer Commanding the station] fails within seven days of the date of issue of the notice referred to in section 261 to make any nomination which it or he is entitled to make or, if any member who has been so nominated neglects or refuses to act and the [1][Board] or other person by whom such member was nominated fails to nominate another member in his place within seven days from the date on which it or he may be called upon to do so by the District Magistrate, the District Magistrate shall forthwith appoint a member or members, as the case may be, to fill the vacancy or vacancies.

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[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority."

[2] Subs. by the A. O. for "Govt.".

[3] Subs. by s. 14 of the Cantonments (Amendment) Act, 1925 (7 of 1925) for "Commanding Officer of the Cantonment."

[4] The words "who shall be persons liable to pay taxes in the cantonment and ordinarily resident therein or in the immediate vicinity thereof" rep. by s. 62 of the Cantonments (Amendment) Act, 1936 (24 of 1936).

263. (*1*) No person who has a direct interest in the matter under reference, or whose services are not immediately available for the purposes of the Committee, shall be nominated a member of a Committee of Arbitration

No person to be nominated who has direct interest or whose services are not immediately available

(*2*) If, in the opinion of the District Magistrate, any person who has been nominated has a direct interest in the matter under reference, or is otherwise disqualified for nomination, or if the services of any such person are not immediately available as aforesaid, and if the [1][Board] or other person by whom any such person was nominated fails to nominate another member within seven days from the date on which it or he may be called upon to do so by the District Magistrate, such failure shall be deemed to constitute a failure to make a nomination within the meaning of section 262

264 (*1*) When a Committee of Arbitration has been duly constituted, the [1][Board] shall, by notice in writing, inform each of the members of the fact, and the Committee shall meet as soon as may be thereafter

Meetings and powers of Committees of Arbitration

(*2*) The Chairman of the Committee shall fix the time and place of meetings, and shall have power to adjourn any meeting from time to time as may be necessary

(*3*) The Committee shall receive and record evidence, and shall have power to administer oaths to witnesses, and, on requisition in writing signed by the Chairman of the Committee, the District Magistrate shall issue the necessary processes for the attendance of witnesses and the production of documents required by the Committee, and may enforce the said processes as if they were processes for attendance or production before himself

265. (*1*) The decision of every Committee of Arbitration shall be in accordance with the majority of votes taken at a meeting at which the Chairman and at least three of the other members are present

Decisions of Committees of Arbitration

(*2*) If there is not a majority of votes in favour of any proposed decision, the opinion of the Chairman shall prevail

(*3*) The decision of a Committee of Arbitration shall be final and shall not be questioned in any Court

Prosecutions

266 [2][(*1*)] Save as otherwise expressly provided in this Act no Court shall proceed to the trial of any offence made punishable by or under this Act, other than an offence specified in Schedule IV, except on the complaint of, or upon information received from, the [1][Board] concerned or a person authorised by the [1][Board] by a general or special order in this behalf

Prosecutions

[1] Subs by s 60 of the Cantonments (Amendment) Act 1936 (24 of 1936) for Cantonment Authority

[2] S 266 was re numbered as sub section (*1*) of that section by s 63 *ibid*

(*Chapter XV.—Powers, Procedure, Penalties and Appeals.*)

[1][(2) No offence made punishable under this Act shall be tried by any Magistrate or by any Bench, if such Magistrate or any of the Magistrates composing the Bench is a member of the Board.]

Composition of offence.

267. (*1*) A [2][Board], or any person authorised by it, by general or special order in this behalf, may, either before or after the institution of the proceedings, compound any offence made punishable by or under this Act other than an offence under Chapter XIV :

Provided that no offence shall be compoundable which is committed by failure to comply with a notice, order or requisition issued by or on behalf of the [2][Board], unless and until the same has been complied with in so far as compliance is possible.

(*2*) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings, shall be taken against him in respect of the offence so compounded.

General Penalty Provisions.

General penalty.

268. Whoever, in any case in which a penalty is not expressly provided by this Act, fails to comply with any notice, order or requisition issued under any provision thereof, or otherwise contravenes any of the provisions of this Act, shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing failure or contravention, with an additional fine which may extend to twenty rupees for every day after the first during which he has persisted in the failure or contravention.

Cancellation and suspension of licences.

269. Where any person to whom a licence has been granted under this Act or any agent or servant of such person commits a breach of any of the conditions thereof, or of any bye-law made under this Act for the purpose of regulating the manner or circumstances in, or the conditions subject to, which anything permitted by such licence is to be or may be done, the [2][Board] may, without prejudice to any other penalty which may have been incurred under this Act, by order in writing, cancel the licence or suspend it for such period as it thinks fit :

Provided that no such order shall be made until an opportunity has been given to the holder of the licence to show cause why it should not be made.

Recovery of amount payable in respect of damage to cantonment property.

270. Where any person has incurred a penalty by reason of having caused any damage to the property of a [2][Board], he shall be liable to make good such damage, and the amount payable in respect of the damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted, and, on non-payment of such amount on demand, the same shall be recovered by distress and sale of the moveable property of such person, and the Magistrate shall issue a warrant for its recovery accordingly.

[1] Ins. by s. 63 of the Cantonments (Amendment) Act, 1936 (24 of 1936).
[2] Subs. by s. 69, *ibid.*, for " Cantonment Authority ".

(*Chapter XV —Powers, Procedure, Penalties and Appeals*)

Limitation

271. No Court shall try any person for an offence made punishable by or under this Act, after the expiry of six months from the date of the com mission of the offence, unless complaint in respect of the offence has been made to a Magistrate within the six months aforesaid

Limitation for prosecu tion

Suits

272. No suit or prosecution shall be entertained in any Court against any [1][Board] [2]* * * or against any [3][Officer Commanding a station], or against any member of a Board, or against any officer or servant of a [1][Board] for anything in good faith done or intended to be done, under this Act or any rule or bye law made thereunder

Protection of Board Executive Officer etc

273. (*1*) No suit shall be instituted against any [1][Board] or against any member of a Board, or against any officer or servant of a [1][Board], in respect of any act done, or purporting to have been done, in pursuance of this Act or of any rule or bye law made thereunder, until the expiration of two months after notice in writing has been left at the office of the [1][Board] and, in the case of such member, officer or servant, unless notice in writing has also been delivered to him or left at his office or place of abode and unless such notice states explicitly the cause of action, the nature of the relief sought, the amount of compensation claimed, and the name and place of abode of the intending plaintiff, and unless the plaint contains a statement that such notice has been so delivered or left

Notice to be given of suits

(*2*) If the [1][Board] member, officer or servant has, before the suit is in stituted, tendered sufficient amends to the plaintiff, the plaintiff shall not recover any sum in excess of the amount so tendered, and shall also pay all costs incurred by the defendant after such tender

(*3*) No suit, such as is described in sub section (*1*), shall unless it is an action for the recovery of immoveable property or for a declaration of title thereto, be instituted after the expiry of six months from the date on which the cause of action arises

(*4*) Nothing in sub section (*1*) shall be deemed to apply to a suit in which the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the institution of the suit or proceeding.

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[1] Subs by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for ' Canton ment Authority '

[2] The words " or authority appointed under sub section (2) of section 10 ' rep by s 64, *ibid*

[3] Subs. by s 11 of the Cantonments (Amendment) Act, 1925 (7 of 1925) for " Command ing Officer of a Cantonment '

(*Chapter XV.—Powers, Procedure, Penalties and Appeals.*)

Appeals and Revision.

Appeals from executive orders.

274. (*1*) Any person aggrieved by any order described in the second column of Schedule V may appeal to the authority specified in that behalf in the third column thereof.

(*2*) No such appeal shall be admitted if it is made after the expiry of the period specified in that behalf in the fourth column of the said Schedule.

(*3*) The period specified as aforesaid shall be computed in accordance with the provisions of the Indian Limitation Act, 1908, with respect to the computation of periods of limitation thereunder. IX

Petition of appeal.

275. (*1*) Every appeal under section 274 shall be made by petition in writing accompanied by a copy of the order appealed against.

(*2*) Any such petition may be presented to the authority which made the order against which the appeal is made, and that authority shall be bound to forward it to the appellate authority, and may attach thereto any report which it may desire to make by way of explanation.

Suspension of action pending appeal.

276. On the admission of an appeal from an order, other than an order contained in a notice issued under clause (*a*) of section 137, section 140, section 176, or section 238, all proceedings to enforce the order and all prosecutions for any contravention thereof shall be held in abeyance pending the decision of the appeal, and, if the order is set aside on appeal, disobedience thereto, shall not be deemed to be an offence.

277. [1]* * * * *

Revision.

[1][(*1*)] Where an appeal from an order made by the [2][Board] has been disposed of by the District Magistrate [3][either party to the proceedings] may, within thirty days from the date thereof, apply, through the [4][Officer Commanding-in-Chief, the Command], to the [5][Central Government], or to such authority as the [5][Central Government] may appoint in this behalf, for a revision of the decision.

[1][(*2*)] The provisions of this Chapter with respect to appeals shall apply, as far as may be, to applications for revision made under this section.

Finality of appellate orders.

278. Save as otherwise provided in section 277, every order of an appellate authority shall be final.

Right of appellant to be heard.

279. No appeal shall be decided under this Chapter unless the appellant has been heard, or has had a reasonable opportunity of being heard in person or through a legal practitioner.

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[1] The original sub-section (*1*) was omitted and sub-sections (*2*) and (*3*) were re-numbered (*1*) and (*2*) by s. 9 of the Cantonments (Amendment) Act, 1926 (35 of 1926).

[2] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".

[3] Subs. by s. 65, *ibid.*, for "the Cantonment Authority".

[4] Subs. by s. 9 of the Cantonments (Amendment) Act, 1926 (35 of 1926) for "Officer Commanding the District".

[5] Subs. by the A. O. for "L. G."

(Chapter XVI —Rules and Bye Laws)

CHAPTER XVI

RULES AND BYE LAWS

280 (*1*) The [1][Central Government] may, after previous publication, make rules[2] to carry out the purposes and objects of this Act — Power to make rules

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely —

(*a*) the manner in which, and the authority to which, application for permission to occupy land belonging to [3][the Crown] in a cantonment is to be made,

(*b*) the authority by which such permission may be granted and the conditions to be annexed to the grant of any such permission,

[4][(*bb*) the allotment to a [5][Board] of a share of the rents and profits accruing from property entrusted to its management under the provisions of section 116A ,]

(*c*) the appointment control, supervision suspension removal, dismissal and punishment of servants of [6][Boards],

[7][(*cc*) the constitution of a Service of Executive Officers and the appointment, control supervision, conditions of service, pay and allowances suspension removal dismissal and punishment of the members thereof]

(*d*) the circumstances in which security shall be demanded from servants of [6][Boards] and the amount and nature of such security,

(*e*) the grant of leave, absentee or acting allowance to servants of [6][Boards],

(*f*) the creation and management of Provident Funds, and the circumstances in which, and the conditions subject to which, contributions thereto shall be made from cantonment funds and by servants of [6][Boards],

(*g*) the keeping of accounts by [6][Boards] and the manner in which such accounts shall be audited and published,

(*h*) the definition of the persons by whom and the manner in which, money may be paid out of a cantonment fund,

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[1] Subs by the A O for G G in C

[2] For the Cantonment Account Code 1924 and the Cantonment Fund Servants Rules 19 made under this section see Genl R & O Vol V pp 470 546 and and for the Cantonment Land Administration Rules 1937 see Gazette of India

[3] Subs by the A O for Govt

[4] Ins by s 12 of the Cantonments (Amendment) Act 1925 (7 of 1925)

[5] Subs by s 69 of the Cantonments (Amendment) Act 1936 (24 of ment Authority

[6] Subs by s 69 ibid for Cantonment Authorities

[7] Ins by s 66 ibid

(*Chapter XVI.—Rules and Bye-Laws.*)

[1]* * * * * * *

(*i*) the preparation of estimates of income and expenditure by [2][Boards] and the definition of the persons by whom, and the conditions subject to which, such estimates may be sanctioned ;

(*j*) the regulation of the procedure of Committees of Arbitration ; and

(*k*) the prescribing of registers, statements and forms to be used and maintained by any authority for the purposes of this Act.

Supplemental provisions respecting rules.

281. (*1*) A rule under section 280 may be made either generally for all cantonments or for the whole or any part of any one or more cantonments.

(*2*) All rules so made shall be published in the [3][Official Gazette] and in such other manner, if any, as the [4][Central Government] may direct and, on such publication, shall have effect as if enacted in this Act.

Power to make bye-laws.

282. Subject to the provisions of this Act and of the rules made thereunder, a [5][Board] may, in addition to any bye-laws which it is empowered to make by any other provision of this Act, make bye-laws to provide for all or any of the following matters in the cantonment, namely :—

(*1*) The registration of births, deaths and marriages, and the taking of a census ;

(*2*) the enforcement of compulsory vaccination ;

(*3*) the regulation of the collection and recovery of taxes, tolls and fees under this Act and the refund of taxes ;

(*4*) the regulation or prohibition of any description of traffic in the streets ;

(*5*) the manner in which vehicles standing, driven, led or propelled in the streets between sunset and sunrise shall be lighted ;

(*6*) the seizure and confiscation of ownerless animals straying within the limits of the cantonment ;

(*7*) the prevention and extinction of fire ;

(*8*) the construction of scaffolding for building operations to secure the safety of the general public and of persons working thereon ;

(*9*) the regulation in any manner not specifically provided for in this Act of the construction, alteration, maintenance, preservation, cleaning, and repairs of drains, ventilation-shafts, pipes, water-closets, privies, latrines, urinals, cesspools and other drainage works ;

(*10*) the regulation or prohibition of the discharge into, or deposit in, drains or sewage, polluted water and other offensive or obstructive matter ;

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[1] Cl. (*hh*) which was ins. by s. 10 of the Cantonments (Amendment) Act, 1926 (35 of 1926) was rep. by s. 66 of the Cantonments (Amendment) Act, 1936 (24 of 1936).

[2] Subs. by s. 69 of Act 24 of 1936 for "Cantonment Authorities".

[3] Subs. by the A. O. for "Gazette of India".

[4] Subs. by the A. O. for "G. G. in C.".

[5] Subs. by s. 69 of Act 24 of 1936 for "Cantonment Authority".

(*11*) the regulation or prohibition of the stabling or herding of animals, or of any class of animals, so as to prevent danger to public health ,

(*12*) the proper disposal of corpses, the regulation and management of burial and burning places and other places for the disposal of corpses, and the fees chargeable for the use of such places where the same are provided or maintained by Government or at the expense of the cantonment fund ,

(*13*) the permission, regulation or prohibition of the use or occupation of any street or place by itinerant vendors or by any person for the sale of articles or the exercise of any calling or the setting up of any booth or stall, and the fees chargeable for such use or occupation ,

(*14*) the regulation and control of encamping grounds, pounds, washing-places, serais, hotels, dak bungalows, lodging houses, boarding-houses, buildings let in tenements, residential clubs, restaurants, eating houses, cafes, refreshment rooms and places of public recreation, entertainment or resort ,

(*15*) the regulation of the ventilation, lighting, cleansing, drainage and water supply of the buildings used for the manufacture or sale of aerated or other potable waters and of butter, milk, sweet-meats and other articles of food or drink for human consumption ,

(*16*) the matters regarding which conditions may be imposed by licences granted under section 210 ,

(*17*) the control and supervision of places where dangerous or offensive trades are carried on so as to secure cleanliness therein or to minimise any injurious, offensive or dangerous effects arising or likely to arise therefrom ,

(*18*) the regulation of the erection of any enclosure, fence, tent, awning or other temporary structure of whatsoever material or nature on any land situated within the cantonment ,

(*19*) the laying out of streets, and the regulation and prohibition of the erection of buildings without adequate provision being made for the laying out and location of streets ,

(*20*) the regulation of the use of public parks and gardens and other public places, and the protection of avenues, trees, grass and other appurtenances of streets and other public places ,

(*21*) the regulation of the grazing of animals ,

(*22*) the fixing and regulation of the use of public bathing and washing places ,

(*23*) the regulation of the posting of bills and advertisements, and of the position, size, shape or style of name boards, sign boards and sign posts ,

(*Chapter XVI.—Rules and Bye-Laws.*)

(*24*) the fixation of a method for the sale of articles whether by measure, weight, piece or any other method ;

(*25*) the rendering necessary of licences within the cantonment—

(*a*) for persons working as job porters for the conveyance of goods ;

(*b*) for animals or vehicles let out on hire ;

(*c*) for the proprietors or drivers of vehicles, boats or other conveyances, or of animals kept or plying for hire ; or

(*d*) for persons impelling or carrying such vehicles or other conveyances ;

(*26*) the prescribing of the fee payable for any licence required under clause (*25*), and of the conditions subject to which such licences may be granted, revised, suspended or withdrawn.

(*27*) the regulation of the charges to be made for the services of such job porters and of the hire of such animals, vehicles or other conveyances, and for the remuneration of persons impelling or carrying such vehicles or conveyances as are referred to in clause (*25*) ;

(*28*) the regulation or prohibition, for purposes of sanitation or the prevention of disease or the promotion of public safety or convenience, of any act which occasions or is likely to occasion a nuisance, and for the regulation or prohibition of which no provision is made elsewhere by or under this Act ;

(*29*) the circumstances and the manner in which owners of buildings or land in the cantonment, who are temporarily absent from, or are not resident in, the cantonment, may be required to appoint as their agents, for all or any of the purposes of this Act or of any rule or bye-law made thereunder, persons residing within or near the cantonment ;

(*30*) the prevention of the spread of infectious or contagious diseases within the cantonment ;

(*31*) the segregation in, or the removal and exclusion from, the cantonment, or the destruction, of animals suffering or reasonably suspected to be suffering from any infectious or contagious disease ;

(*32*) the supervision, regulation, conservation and protection from injury, contamination or trespass of sources and means of public water-supply and of appliances for the distribution of water whether within or without the limits of the cantonment ;

(*33*) the manner in which connections with water-works may be constructed or maintained, and the agency which shall or may be employed for such construction and maintenance ;

(34) the regulation of all matters and things relating to the supply and use of water including the collection and recovery of charges therefor and the prevention of evasion of the same

(35) the maintenance of schools and the furtherance of education generally ,

(36) the regulation or prohibition of the cutting or destruction of trees or shrubs or of the making of excavations or of the removal of soil or quarrying where such regulation or prohibition appears to the [1][Board] to be necessary for the maintenance of a water supply the preservation of the soil the prevention of landslips or of the formation of ravines or torrents or the protection of land against erosion or against the deposit thereon of sand gravel or stones ,

(37) the rendering necessary of licences for the use of premises within the cantonment as stables or cowhouses or as accommodation for sheep goats or fowls

(38) the control of the use in the cantonment of mechanical whistles, syrens or trumpets and

(39) generally for the regulation of the administration of the cantonment under this Act

Penalty for breach of bye laws

283 Any bye law made by a [1][Board] under this Act may provide that a contravention thereof shall be punishable—

(a) with fine which may extend to one hundred rupees or

(b) with fine which may extend to one hundred rupees and in the case of a continuing contravention with an additional fine which may extend to twenty rupees for every day during which such contravention continues after conviction for the first such contravention or

(c) with fine which may extend to ten rupees for every day during which the contravention continues after the receipt of a notice from the [1][Board] by the person contravening the bye law requiring such person to discontinue such contravention

Supplemental provisions regarding bye laws

284 (1) Any power to make bye laws conferred by this Act is conferred subject to the condition of the bye laws being made after previous publication and of their not taking effect until they have been approved and confirmed by the [2][Central Government] and published in the [3][Official Gazette]

(2) The [2][Central Government] in confirming a bye law may make any change therein which appears to it to be necessary

(3) The [2][Central Government] may, after previous publication of its intention cancel any bye law which it has confirmed and thereupon the bye-law shall cease to have effect

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[1] Subs by s 69 of the Cantonments (Amendment) Act 1936 (24 of 1936) for Cantonment Authority

[2] Subs by the A O for L C

[3] Subs by the A O for local official Gazette

(Chapter XVI.—Rules and Bye-Laws. Chapter XVII.—Supplemental Provisions.)

Rules and bye-laws to be available for inspection and purchase.

285. (*1*) A copy of all rules and bye-laws made under this Act shall be kept at the office of the [1][Board] and shall, during office hours, be open free of charge to inspection by any inhabitant of the cantonment.

(*2*) Copies of all such rules and bye-laws shall be kept at the office of the [1][Board], [2][and shall be sold to the public at cost price singly, or in collections at the option of the purchaser].

CHAPTER XVII.

SUPPLEMENTAL PROVISIONS.

Extension of certain provisions of the Act and rules to places beyond cantonments.

286. The [3][Central Government] may, by notification in the [4][Official Gazette], and subject to any conditions as to compensation or otherwise which it thinks fit to impose, extend to any area beyond a cantonment and in the vicinity thereof, with or without restriction or modification, any of the provisions of Chapters IX, X, XI, XII, XIII, XIV and XV or of any rule or bye-law made under this Act for the cantonment which relates to the subject-matter of any of those Chapters, and every enactment, rule or bye-law so extended shall thereupon apply to that area as if the area were included in the cantonment.

Power to delegate functions of Executive Officer.

[5][**286A.** The [1][Board] may empower any of its members or officers to exercise or perform in the absence of the Executive Officer from the cantonment all or any of such powers or duties of an Executive Officer under this Act as the [6][Central Government] may, by notification in the [7][Official Gazette], specify in this behalf.]

Registration.

287. (*1*) Paragraphs 2 and 3 of section 54, and sections 59, 107 and 123 of the Transfer of Property Act, 1882, with respect to the transfer of property by registered instrument, shall, on and from the commencement of this Act, extend to every cantonment.

[8][(*2*) The Registrar or Sub-Registrar of the district or sub-district formed for the purposes of the Indian Registration Act, 1908, in which any cantonment is situated, shall, [9][when any document relating to immoveable property within the cantonment is registered, send information of the registration]

[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".
[2] Subs. by s. 67, *ibid.*, for "for sale to the public".
[3] Subs. by the A. O. for "L. G."
[4] Subs. by the A. O. for "local official Gazette".
[5] Ins. by s. 8 of the Cantonments (Amendment) Act, 1931 (7 of 1931).
[6] Subs. by the A. O. for "G. G. in C."
[7] Subs. by the A. O. for "Gazette of India".
[8] Subs. by s. 11 of the Cantonments (Amendment) Act, 1926 (35 of 1926) for the original sub-section.
[9] Subs. by s. 2 and Sch. I of the Repealing and Amending Act, 1927 (10 of 1927) for the original words.

forthwith to the [1][Board] or such other authority as the [2][Central Government] may prescribe in this behalf]

288. No notice, order, requisition, licence, permission in writing or other such document issued under this Act shall be invalid merely by reason of any defect of form. *Validity of notices and other documents*

289. A copy of any receipt, application, plan, notice, order or other document or of any entry in a register, in the possession of a [1][Board] shall, if duly certified by the legal keeper thereof or other person authorised by the [1][Board] in this behalf, be admissible in evidence of the existence of the document or entry, and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which, the original document or entry would, if produced, have been admissible to prove such matters. *Admissibility of document or entry as evidence*

290 No officer or servant of a [1][Board] shall in any legal proceeding to which the [1][Board] is not a party, be required to produce any register or document the contents of which can be proved under section 289 by a certified copy, or to appear as a witness to prove any matter or transaction recorded therein save by order of the Court made for special cause. *Evidence by officer or servant of the Board*

291. For the purposes of the Government Buildings Act 1899, cantonments and [1][Boards] shall be deemed to be municipalities and municipal authorities respectively. *Application of Act IV of 1899*

292. [*Repeals*] *Rep by the Repealing Act, 1927* (*XII of 1927*)

SCHEDULE I

NOTICE OF DEMAND

(*See section 91*)

To

residing at

Take notice that the [1][Board] demands from the sum of due from on account of (here describe the property, occupation circumstance or thing in respect of which the sum is payable) leviable under for the period of commencing on the day of 19 , and ending on the day of 19 , and that if within thirty days from the service of this notice, the said sum is not paid to the [1][Board] at or sufficient cause for non payment is not shown to the satisfaction of the Executive Officer, a warrant of distress will be issued for the recovery of the same with costs

Dated this day of 19

(Signed)

Executive Officer
Cantonment.

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[1] Subs by s 69 of the Cantonments (Amendment) Act 1936 (24 of 1936) for "Cantonment Authority" and "Cantonment Authorities", respectively

[2] Subs by the A O for "G G in C"

(Schedule II.—Form of Warrant. Schedule III.—Form of Inventory of Property distrained and Notice of Sale. Schedule IV.—Cases in which Police may arrest without Warrant.)

SCHEDULE II.

FORM OF WARRANT.

(See section 92.)

(Here insert the name of the officer charged with the execution of the warrant.)

*(Here describe the liability.)

Whereas A. B. of has not paid, and has not shown satisfactory cause for the non-payment of, the sum of due on account of * for the period of commencing on the day of 19 , and ending with the day of 19 , which sum is leviable under ;

And whereas thirty days have elapsed since the service on him of notice of demand for the same:

This is to command you to distrain, subject to the provisions of the Cantonments Act, 1924, the moveable property of the said A. B. to the amount of the said sum of Rs. ; and forthwith to certify to me, together with this warrant, all particulars of the property seized by you thereunder.

Dated this day of 19 .

(Signed)

Executive Officer,

Cantonment.

SCHEDULE III.

FORM OF INVENTORY OF PROPERTY DISTRAINED AND NOTICE OF SALE.

(See section 93.)

To

residing at

*(Here describe the liability.)

Take notice that I have this day seized the property specified in the inventory annexed hereto, for the value of due for the liability* mentioned in the margin for the period commencing with the day of 19 , and ending with the day of 19 , together with Rs. due for service of notice of demand, and that, unless within seven days from the date of the service of this notice you pay to the [1][Board] the said amount, together with the costs of recovery, the said property will be sold by public auction.

Dated this day of 19 .

(Signature of officer executing the warrant.)

INVENTORY.

(Here state particulars of property seized.)

SCHEDULE IV.

CASES IN WHICH POLICE MAY ARREST WITHOUT WARRANT.

(See section 250.)

1 Section.	2 Subject.
	PART A.
118 (*1*) (*a*) (i) .	Drunkenness, etc.
167 . . .	Making or selling of food, etc., or washing of clothes, by infected person.

[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority".

(*Schedule IV.—Cases in which Police may arrest without Warrant. Schedule V.—Appeals from Orders.*)

SCHEDULE IV—*contd.*

1 Section.	2 Subject.
	PART B
118 (*1*) (*a*) (ii)	Using threatening or abusive words, etc
118 (*1*) (*a*) (iii)	Indecent exposure of person, etc
118 (*1*) (*a*) (iv)	Begging
118 (*1*) (*a*) (v)	Exposing deformity, etc.
118 (*1*) (*a*) (vii)	Gaming.
118 (*1*) (*a*) (xii)	Destroying notice, etc
118 (*1*) (*a*) (xiii)	Breaking direction post, etc
118 (*1*) (*f*)	Keeping common gaming house, etc
118 (*1*) (*g*)	[illegible]
118 (*1*) (*h*)	
119 (*6*)	
125 [illegible]	
176 (*1*)	Remaining in, or re entering cantonment after notice of expulsion for failure to attend hospital or dispensary
193 (*2*)	Destroying, etc , name of street or number affixed to building
214	Feeding animal on filth, etc
236	Loitering or importuning for sexual immorality
240 (*a*)	Remaining in, or returning to, a cantonment after notice of expulsion

SCHEDULE V.

APPEALS FROM ORDERS.

(*See section 274*)

1 Section	2 Executive Order	3 Appellate Authority.	4 Time allowed for appeal.
126	[1][Board's] notice to repair, protect or enclose a building, wall or anything affixed thereto, or well, tank, reservoir, pool, depression or excavation	[2][Officer Commanding in-Chief, the Command] [3][, or other authority authorised in this behalf by the [4][Central Government]]	Thirty days from service of notice

[1] Subs by s 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for " Cantonment Authority's "

[2] Subs by s 2 of the Cantonments (Amendment) Act, 1926 (35 of 1926) for " Officer Commanding the District "

[3] Ins by s 68 of Act 24 of 1936

[4] Subs by the A. O. for " G G in C "

SCHEDULE V—*contd.*

1 Section.	2 Executive Order.	3 Appellate Authority.	4 Time allowed for appeal.
134	[1][Board's] notice to fill up well, tank, etc., or to drain off or remove water.	[2][Officer Commanding-in-Chief, the Command] [3][, or other authority authorised in this behalf by the [4][Central Government]].	Thirty days from service of notice.
137	[1][Board's] notice to provide sufficient drainage, etc.	[2][Officer Commanding-in-Chief, the Command] [3][, or other authority authorised in this behalf by the [4][Central Government]].	Fifteen days from service of notice.
140	[1][Board's] notice requiring a building to be repaired or altered so as to remove sanitary defects.	[2][Officer Commanding-in-Chief, the Command] [3][, or other authority authorised in this behalf by the [4][Central Government]].	Thirty days from service of notice.
176	Order of [5][Officer Commanding the station] on report of Medical Officer, directing a person to remove from the cantonment and prohibiting him from re-entering it without permission.	[2][Officer Commanding-in-Chief, the Command] [3][, or other authority authorised in this behalf by the [4][Central Government]].	Thirty days from service of notice.
181	[1][Board's] refusal to sanction the erection or re-erection of a building.	[2][Officer Commanding-in-Chief, the Command] [3][, or other authority authorised in this behalf by the [4][Central Government].	[6][Thirty days from the date on which the refusal shall have been communicated to the person applying for sanction].

[1] Subs. by s. 69 of the Cantonments (Amendment) Act, 1936 (24 of 1936) for "Cantonment Authority's".

[2] Subs. by s. 2 of the Cantonments (Amendment) Act, 1926 (35 of 1926) for "Officer Commanding the District".

[3] Ins. by s. 68 of Act 24 of 1936.

[4] Subs. by the A. O. for "G. G. in C.".

[5] Subs. by s. 13 of the Cantonments (Amendment) Act, 1925 (7 of 1925) for "Commanding Officer of Cantonment".

[6] Subs. by s. 68 of Act 24 of 1936 for "Thirty days from date of refusal".

(*Schedule V.—Appeals from Orders. Schedule VI.—Enactments repealed.*)

SCHEDULE V—*concld.*

1 Section	2 Executive Order	3 Appellate Authority	4 Time allowed for appeal.
185	[1][Board s] notice to alter or demolish a building	[2][Officer Commanding in Chief, the Command] [3][, or other authority authorised in this behalf by the [4][Central Government]]	Thirty days from service of notice
188	[1][Board's] notice to pull down or otherwise deal with a building newly erected or rebuilt without permission over a sewer, drain, culvert, water course or water-pipe	[2][Officer Commanding in Chief, the Command] [3][, or other authority authorised in this behalf by the [4][Central Government]].	Thirty days from service of notice.
206	[1][Board's] notice prohibiting or restricting the use of a slaughterhouse	[2][Officer Commanding in Chief, the Command] [3][, or other authority authorised in this behalf by the [4][Central Government]]	Twenty one days from service of notice.
238	Magistrate's notice directing disorderly person to remove from cantonment and prohibiting him from re-entering it without permission	District Magistrate . .	Thirty days from service of notice.

SCHEDULE VI.—[ENACTMENTS REPEALED.] *Rep. by the Repealing Act, 1927 (XII of 1927).*

[1] *See* footnote 1 on pre page.
[2] *See* footnote 2 on pre page.
[3] *See* footnote 3 on pre page.
[4] *See* footnote 4 on pre page.

THE IMMIGRATION INTO INDIA ACT, 1924.

ACT NO. III OF 1924.[1]

[1st March, 1924.]

An Act to regulate the entry into and residence in British India of persons domiciled in other British Possessions.

WHEREAS it is expedient to make provision for regulating the entry into and residence in British India of persons domiciled in the British Possessions on a basis of reciprocity; It is hereby enacted as follows:—

Short title, commencement and extent.

1. (*1*) This Act may be called the Immigration into India Act, 1924.

(*2*) It shall come into force on such date[2] as the [3][Central Government] may notify in the [4][Official Gazette].

(*3*) It shall extend to the whole of British India, including British Baluchistan.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "British Possession" means any part of His Majesty's Dominions other than British India, the United Kingdom and Ireland, and includes Protectorates and territories which are or may be administered by a Dominion as a mandatory on behalf of the League of Nations;

(*b*) "entry" includes landing at any port in British India during the period of the ship's stay on her way to a destination outside British India.

Rules as regards entry into and [residence in British] India.

3. The [3][Central Government] may make rules for the purpose of securing that persons not being of Indian origin, domiciled in any British Possession, shall have no greater rights and privileges, as regards entry into and residence in British India, than are accorded by the law and administration of such Possession to persons of Indian domicile.

[P]ower to make rules.

4. The [3][Central Government] may, without prejudice to the generality of the powers contained in section 3 of this Act, make rules—

(*a*) to provide for the establishment of a suitable agency to administer the rules and to define its functions and powers;

(*b*) to provide suitable penalties for the contravention of such rules or attempt to contravene them, or the abetment of such contravention; and

(*c*) to authorise the arrest of any person contravening or reasonably suspected of contravening any such rule, and to prescribe the duties of public servants and others in regard to such arrests.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 406.

[2] 1st September 1936; *see* Gazette of India, 1936, Pt. I, p. 1048.

[3] Subs. by the A. O. for "G. G. in C."

[4] Subs. by the A. O. for "Gazette of India".

5 If any person alleged to be domiciled in any British Possession and to be subject to the provisions of this Act raises the plea that he is not so domiciled or that the provisions of the said Act do not apply to him, the onus of proving the truth of such plea shall lie on the aforesaid person. Person claiming exemption to establish case

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THE CENTRAL BOARD OF REVENUE ACT, 1924

ACT No IV OF 1924[1]

[*13th March, 1924*]

An Act to provide for the constitution of a Central Board of Revenue and to amend certain enactments for the purpose of conferring powers and imposing duties on the said Board

WHEREAS it is expedient to provide for the constitution of a Central Board of Revenue and to amend certain enactments for the purpose of conferring powers and imposing duties on the said Board It is hereby enacted as follows —

1 (*1*) This Act may be called the Central Board of Revenue Act 1924. Short title and commencement
(2) It shall come into force on the first day of April 1924

2 As soon as may be after the commencement of this Act the [2][Central Government] shall constitute[3] a Central Board of Revenue consisting of one or more persons appointed by [4][it] which shall be subject to the control of the [2][Central Government] in the exercise of such powers and the performance of such duties as may be entrusted to it by the [2][Central Government] or by or under any law. Constitution of Central Board of Revenue

3 The [2][Central Government] may make rules[5] for the purpose of regulating the transaction of business by the Central Board of Revenue, and every order made or act done in accordance with such rules shall be deemed to be the order or act, as the case may be of the Central Board of Revenue. Procedure of the Board

4 The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof. Amendments of enactments.

Provided that, where the power to make any appointment, or issue any notification order, scheme or rule, or prescribe any form is transferred by the operation of this Act from any authority to the Central Board of Revenue

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[1] For Statement of Objects and Reasons see Gazette of India 19 4 Pt. V, p. 30 and

Vol V, p 612

[5] For such rules see Gen R & O Vol V, p 61?

or any other authority, any such appointment, notification, order, scheme, rule, or form made, issued or prescribed by the first-mentioned authority before the commencement of this Act shall continue in force and be deemed to have been made, issued or prescribed by the Central Board of Revenue or such other authority, as the case may be, unless and until it is superseded by an appointment, notification, order, scheme, rule, or form made, issued or prescribed by the said Board or authority.

THE SCHEDULE.

ENACTMENTS AMENDED.

[*Omitted.*][1]

THE CRIMINAL TRIBES ACT, 1924.

CONTENTS.

PRELIMINARY.

SECTIONS.

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[1] The Schedule amended the Sea Customs Act, 1878 (8 of 1878), the Cotton Duties Act, 1896 (2 of 1896), the Indian Salt Duties Act, 1908 (10 of 1908), the Indian Copyright Act, 1914 (3 of 1914) and the Indian Income-tax Act, 1922 (11 of 1922). The entry relating to Act 2 of 1896 was rep. by the Repealing Act, 1927 (12 of 1927). The amendments made in the other Acts are shown in their proper places under those Acts.

Restriction of movements of Criminal Tribes

Settlements and Schools

Rules

Penalties and Procedure

Supplemental

ACT NO. VI OF 1924.[1]

[*15th March, 1924.*]

An Act to consolidate the law relating to Criminal Tribes.

WHEREAS it is expedient to consolidate the law relating to criminal tribes; It is hereby enacted as follows:—

Preliminary.

Short title and extent.

1. (*1*) This Act may be called the Criminal Tribes Act, 1924.

(*2*) It extends to the whole of British India.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "district" includes a Presidency-town [2]* * * * *;

(*2*) "District Magistrate" means, in the case of a Presidency-town [3]* * *, the Commissioner of Police;

(*3*) "prescribed" means prescribed by rules made under this Act; and

(*4*) "Superintendent of Police" means, in the case of a Presidency-town [3]* * *, any officer appointed by the [4][Provincial Government] to perform the duties of a Superintendent of Police under this Act.

Notification of Criminal Tribes.

Power to declare any tribe, gang or class a criminal tribe.

3. If the [4][Provincial Government] has reason to believe that any tribe, gang or class of persons, or any part of a tribe, gang or class, is addicted to the systematic commission of non-bailable offences, it may, by notification in the [5][Official Gazette], declare that such tribe, gang or class or, as the case may be, that such part of the tribe, gang or class is a criminal tribe for the purposes of this Act.

Registration of Members of Criminal Tribes.

istration members f criminal tribes.

4. The [4][Provincial Government] may direct the District Magistrate to make or to cause to be made a register of the members of any criminal tribe, or part of a criminal tribe, within his district.

Procedure in making register.

5. Upon receiving such direction, the District Magistrate shall publish notice in the prescribed manner at the place where the register is to be made and at such other places as he may think fit, calling upon all the members of the criminal tribe or part, as the case may be,—

(*a*) to appear at a time and place therein specified before a person appointed by him in this behalf;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1924, Pt. V, p. 7.
[2] The words "and the town of Rangoon" rep. by the A. O.
[3] The words "or the town of Rangoon" rep. by the A. O.
[4] Subs. by the A. O. for "L. G."
[5] Subs. by the A. O. for "local official Gazette".

(Registration of Members of Criminal Tribes.)

(*b*) to give to that person such information as may be necessary to enable him to make the register, and

(*c*) to allow their finger impressions to be recorded

Provided that the District Magistrate may exempt any member from registration and may cancel any such exemption

Charge of register

6 The register when made shall be placed in the keeping of the Superintendent of Police who shall from time to time report to the District Magistrate any alterations which ought in his opinion to be made therein either by way of addition or erasure

Alterations in register

7 (*1*) After the register has been placed in the keeping of the Superintendent of Police no person's name shall be added to the register and no registration shall be cancelled except by, or under an order in writing of, the District Magistrate

(*2*) Before the name of any person is added to the register under this section, the Magistrate shall give notice in the prescribed manner to the person concerned—

(*a*) to appear before him or an authority appointed by him in this behalf at a time and place therein specified

(*b*) to give to him or such authority such information as may be necessary to enable the entry to be made, and

(*c*) to allow his finger impressions to be recorded

Complaints of entries in register

8 Any person deeming himself aggrieved by any entry made or proposed to be made, in such register either when the register is first made or subsequently, may complain to the District Magistrate against such entry, and the Magistrate shall retain such person's name on the register or enter it therein or erase it therefrom as he may think fit

Power to take finger impressions at any time

9 The District Magistrate or any officer empowered by him in this behalf may at any time order the finger impressions of any registered member of a criminal tribe to be taken

Members of criminal tribes to report themselves or notify residence

10 [1][(*1*)] The [2][Provincial Government] may, by notification in the [3][Official Gazette] issue in respect of any criminal tribe either or both of the following directions namely, that every registered member thereof shall, in the prescribed manner,

(*a*) report himself at fixed intervals,

(*b*) notify his place of residence and any change or intended change of residence, and any absence or intended absence from his residence

[4][(*2*) Where a registered member of a criminal tribe in respect of which the [2][Provincial Government] has issued a notification under sub section (*1*)

[1] The original s 10 was renumbered as sub-section (*1*) of that section by the Criminal Tribes (Amendment) Act 1925 (33 of 1925) s 2

[2] Subs by the A O for L G

[3] Subs. by the A O for local official Gazette

[4] Ins. by Act 33 of 1925 s. 2

changes his place of residence to a district other than that in which he has been registered (whether in the same Province or not), or is for the time being in a district of a Province other than that by the [1][Provincial Government] of which the said notification was issued, the provisions of this Act and of the rules made thereunder shall apply to him as if in pursuance of a direction made under section 4 he had been registered in that district; and where that district is in a Province other than that by the [1][Provincial Government] of which the notifications under section 3 and sub-section *(1)* of this section were issued in respect of such criminal tribe, as if the said notifications had been issued by the [1][Provincial Government] of such other Province.

(*3*) Where any such registered member changes his place of residence to a district other than that in which he has been registered (whether in the same Province or not), the relevant entry in the register shall be transferred to the Superintendent of Police of that district.]

Restriction of movements of Criminal Tribes.

Power to restrict movements of, or settle, criminal tribes.

11. (*1*) If the [1][Provincial Government] considers that it is expedient that any criminal tribe, or any part or member of a criminal tribe, should be—

(*a*) restricted in its or his movements to any specified area, or

(*b*) settled in any place of residence, the [1][Provincial Government] may, by notification in the [2][Official Gazette], declare that such criminal tribe, part or member, as the case may be, shall be restricted in its or his movements to the area specified in the notification, or shall be settled in the place of residence so specified, as the case may be.

(*2*) Before making any such declaration, the [1][Provincial Government] shall consider the following matters, namely:—

(i) the nature and the circumstances of the offences in which the members of the criminal tribe or part or the individual member, as the case may be, are or is believed to have been concerned;

(ii) whether the criminal tribe, part or member follows any lawful occupation, and whether such occupation is a real occupation or merely a pretence for the purpose of facilitating the commission of crimes;

(iii) the suitability of the restriction area, or of the place of residence, as the case may be, which it is proposed to specify in the notification; and

(iv) the manner in which it is proposed that the persons to be restricted or settled shall earn their living within the restriction area or in the place of residence, and the adequacy of the arrangements which are proposed therefor.

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "local official Gazette".

(Restriction of movements of Criminal Tribes Settlements and Schools)

12. The [1][Provincial Government] may by a like notification vary the terms of any notification issued by it under section 11 for the purpose of specifying another restriction area or another place of residence, as the case may be, and any officer empowered in this behalf by the [1][Provincial Government] may, by order in writing, vary any notification made under section 11 or under this section for the purpose of specifying another restriction area, or, as the case may be, another place of residence, in the same district

Power to vary specified area or place of residence

13. Any notification made by the [1][Provincial Government] under section 11 or section 12 may specify, as the restriction area or as the place of residence, an area or place situated in any other Province, provided that the consent of the [1][Provincial Government] of that Province shall first have been obtained

Power of Provincial Government to restrict or settle criminal tribe in another Province

14. Every registered member of a criminal tribe, whose movements have been restricted or who has been settled in a place of residence in pursuance of any notification under section 11 or section 12, shall attend at such place and at such time and before such person as may be prescribed in this behalf

Verification of presence of members of tribe within prescribed area or place of residence

15. (*1*) Where, in pursuance of any such notification, any member of a criminal tribe is restricted in his movements to an area, or is settled in a place of residence, situated in a Province other than that by the [1][Provincial Government] of which the notification under section 3 relating to the criminal tribe was issued, all the provisions of this Act and the rules made thereunder shall apply to him as if the notification under section 3 had been issued by the [1][Provincial Government] of such other Province

Application of Act when criminal tribe is transferred from one Province or district to another

(*2*) If any criminal tribe, or any part of a criminal tribe, which has been registered under section 4 in any district, or any member of such tribe or part, is restricted in its or his movements to an area, or is settled in a place of residence, situated in another district (whether in the same Province or not), the register or, as the case may be, the relevant entries or entry therein shall be transferred to the Superintendent of Police of the last mentioned district, and all the provisions of this Act and the rules made thereunder shall apply as if the criminal tribe or part had been registered in that district, and the District Magistrate of that district shall have power to cancel any exemption granted under section 5

Settlements and Schools

16. The [1][Provincial Government] may establish industrial, agricultural or reformatory settlements and may order to be placed in any such settlement any criminal tribe, or any part or member of a criminal tribe, in respect of which or of whom a notification has been issued under section 11

Power to place tribe in settlement

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[1] Subs by the A O for L. G

(*Settlements and Schools. Rules.*)

Provided that no such order shall be made unless the necessity for making it has been established to the satisfaction of the [1][Provincial Government], after an inquiry held by such authority and in such manner as may be prescribed.

Power to place children in schools and to apprentice them.

17. (*1*) The [1][Provincial Government] may establish industrial, agricultural or reformatory schools for children, and may order to be separated and removed from their parents or guardians and to be placed in any such school or schools the children of members of any criminal tribe or part of a criminal tribe, in respect of which a notification has been issued under section 11.

(*2*) For every school established under sub-section (*1*), a Superintendent shall be appointed by the [1][Provincial Government].

(*3*) The provisions of sections 18 to 22 of the Reformatory Schools Act, 1897, shall, so far as may be, apply in the case of every school for children VIII established under this section as if the Superintendent of such school were a Superintendent and the children placed in such school were youthful offenders within the meaning of that Act.

(*4*) For the purposes of this section the term "children" includes all persons under the age of eighteen and above the age of six years.

(*5*) The decision of the District Magistrate as to the age of any person for the purposes of this section shall be final.

Power to discharge or transfer persons from settlement or school.

18. The [1][Provincial Government] or any officer authorised by it in this behalf may at any time, by general or special order, direct any person who may be in any industrial, agricultural or reformatory settlement or school in the Province,—

(*a*) to be discharged, or

(*b*) to be transferred to some other settlement or school in the Province.

Power to direct use of ·· y settle- ·nt or ·ool in ·ritish India for reception of persons.

19. Any order made under section 16, section 17 or section 18 may specify as the settlement or school in which any person is to be placed or to which he is to be transferred, as the case may be, any industrial, agricultural or reformatory settlement or school in any other Province, provided that the consent of the [1][Provincial Government] of that Province shall first have been obtained.

Rules.

Power to make rules.

20. (*1*) The [1][Provincial Government] may make rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate—

(*a*) the form and contents of the register referred to in section 4;

(*b*) the manner in which the notice referred to in section 5 shall be published and the means by which the persons whom it con-

[1] Subs. by the A. O. for "L. G."

(*Rules*)

cerns, and the village headmen, village watchmen and land-owners and occupiers of the village in which such persons reside, and the agents of such landowners or occupiers shall be informed of its publication,

(*c*) the addition of names to the register and the erasure of names therein, and the mode in which the notice referred to in sub section (2) of section 7 shall be given,

(*d*) the manner in which persons mentioned in section 10 shall report themselves or notify their residence or any change or intended change of residence, or any absence or intended absence,

(*e*) the nature of the restrictions to be observed by persons whose movements have been restricted by notifications under section 11 or section 12

(*f*) the circumstances in which members of a criminal tribe shall be required to possess and produce for inspection certificates of identity, and the manner in which such certificates shall be granted,

(*g*) the conditions as to holding passes under which persons may be permitted to leave the place in which they are settled or confined, or the area to which their movements are restricted,

(*h*) the conditions to be inserted in any such pass in regard to—

(i) the places where the holder of the pass may go or reside,

(ii) the persons before whom, from time to time, he shall be bound to present himself, and

(iii) the time during which he may absent himself,

(*i*) the place and time at which, and the persons before whom, members of a criminal tribe shall attend in accordance with the provisions of section 14,

(*j*) the authority by whom and the manner in which the inquiry referred to in section 16 shall be held,

(*k*) the inspection of the residences and villages of any criminal tribe,

(*l*) the terms upon which registered members of criminal tribes may be discharged from the operation of this Act,

(*m*) the management, control and supervision of industrial, agricultural or reformatory settlements and schools,

(*n*) the works on which, and the hours during which, persons placed in an industrial, agricultural or reformatory settlement shall be employed, the rate at which they shall be paid and the disposal, for the benefit of such persons, of the surplus proceeds of their labour, and

(*o*) the discipline to which persons endeavouring to escape from any industrial, agricultural or reformatory settlement or school or otherwise offending against the rules for the time being in force, shall be subject, the periodical visitation of such

settlement or school and the removal from it of such persons as it shall seem expedient to remove.

Penalties and Procedure.

Penalties for failure to comply with terms of notice under section 5 or section 7.

21. Whoever, being a member of a criminal tribe, without lawful excuse, the burden of proving which shall lie upon him,—

(*a*) fails to appear in compliance with a notice issued under section 5 or section 7, or

(*b*) intentionally omits to furnish any information required under either of those sections, or

(*c*) when required to furnish information under either of those sections, furnishes as true any information which he knows or has reason to believe to be false, or

(*d*) refuses to allow his finger-impressions to be taken by any person acting under an order passed under section 9,

may be arrested without warrant, and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Penalties for breach of rules.

22. (*1*) Whoever, being a registered member of a criminal tribe, contravenes a rule made under clause (*e*), clause (*g*) or clause (*h*) of section 20 shall be punishable with imprisonment for a term which may extend,—

(*a*) on a first conviction, to one year,

(*b*) on a second conviction, to two years, and

(*c*) on any subsequent conviction, to three years,

or with fine which may extend to five hundred rupees, or with both.

(*2*) Whoever, being a registered member of a criminal tribe, contravenes any other rule made under section 20 shall be punishable,—

(*a*) on a first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both; and

(*b*) on any subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

(*3*) Any person who commits or is reasonably suspected of having committed an offence made punishable by this section which is not a cognizable offence as defined in the Code of Criminal Procedure, 1898, may be arrested V of without a warrant by any officer in charge of a police-station or by any police-officer not below the rank of a sub-inspector.

Enhanced punishment for certain offences by members of criminal tribe after previous conviction.

23. (*1*) Whoever, being a member of any criminal tribe and having been convicted of any of the offences under the Indian Penal Code specified in XLV Schedule I, is convicted of the same or of any other such offence shall, in the absence of special reasons to the contrary which shall be stated in the judgment of the Court, be punished,—

(*a*) on a second conviction, with imprisonment for a term of not less than seven years, and

(*Penalties and Procedure*)

(*b*) on a third or any subsequent conviction, with transportation for life

Provided that not more than one of any such convictions which may have occurred before the first day of March, 1911, shall be taken into account for the purposes of this sub section

(*2*) Nothing in this section shall affect the liability of such person to any further or other punishment to which he may be liable under the Indian Penal Code or any other law

Punishment for registered members of criminal tribe found under suspicious circumstances

24 Whoever, being a registered member of any criminal tribe, is found in any place under such circumstances as to satisfy the Court —

(*a*) that he was about to commit or aid in the commission of, theft or robbery, or

(*b*) that he was waiting for an opportunity to commit theft or robbery,

shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine which may extend to one thousand rupees

Arrest of registered person found beyond prescribed limits

25 (*1*) Whoever, being a registered member of a criminal tribe,—

(*a*) is found in any part of British India beyond the area or place of residence, if any to which his movements have been restricted or in which he has been settled without the prescribed pass, or in a place or at a time not permitted by the conditions of his pass or

(*b*) escapes from an industrial, agricultural or reformatory settlement or school,

may be arrested without warrant by any police officer village headman or village watchman and may be taken before a Magistrate who on proof of the facts, shall order him to be removed to such area or place or to such settlement or school, as the case may be, there to be dealt with in accordance with this Act or any rules made thereunder

(*2*) The rules for the time being in force for the removal of prisoners shall apply to all persons removed under this section or under any other provision of this Act

Provided that an order from the [1][Provincial Government] or from the Inspector General of Prisons shall not be necessary for the removal of such persons

Duties of village-headmen, village-watchmen and owners or occupiers of land to give information in certain cases.

26 (*1*) Every village headman and village watchman in a village in which any members of a criminal tribe reside and every owner or occupier of land on which any such persons reside and the agent of any such owner or occupier, shall forthwith communicate to the officer in charge of the nearest police station any information which he may obtain of—

(*a*) the failure of any such person to appear and give information when required to do so by a notice issued under section 5, or

[1] Subs by the A O for L. G

(Penalties and Procedure. Supplemental. Schedule I.)

(*b*) the departure of any registered member of a criminal tribe from such village or from such land, as the case may be.

(*2*) Every village-headman and village-watchman in a village, and every owner or occupier of land and the agent of any such owner or occupier, shall forthwith communicate to the officer in charge of the nearest police-station any information which he may obtain of the arrival at such village or on such land, as the case may be, of any persons who may reasonably be suspected of being members of any criminal tribe.

Penalty for breach of such duties.

27. Any village-headman, village-watchman, owner or occupier of land, and the agent of any such owner or occupier, who fails to comply with the requirements of section 26, shall be deemed to have committed an offence punishable under the first part of section 176 of the Indian Penal Code. XL 186

Power to deport certain criminal tribes to States in India.

28. The [1][Provincial Government], if it is satisfied that adequate provision has been made by the law of any State in India for the restriction of the movements or the settlement in a place of residence of persons such as are referred to in section 3, and for securing the welfare of persons so restricted or settled, may, with the consent of the Prince or Chief of that State, direct the removal to that State of any criminal tribe, or part of a criminal tribe, for the time being in the Province, and may authorise the taking of all measures necessary to effect such removal:

Provided that no person shall be so removed if the [1][Provincial Government] is satisfied that he is a subject of His Majesty.

Supplemental.

Bar of jurisdiction of Courts in questions relating to certain tifica- ns.

29. No Court shall question the validity of any notification issued under section 3, section 11, or section 12, on the ground that the provisions hereinbefore contained or any of them have not been complied with, or shall entertain in any form whatever the question whether they have been complied with; but every such notification shall be conclusive proof that it has been issued in accordance with law.

30. [*Repeals.*] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

SCHEDULE I.

(See section 23.)

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233. Making or selling instrument for counterfeiting coin.
234. Making or selling instrument for counterfeiting Queen's coin.

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[1] Subs. by the A. O. for "L. G."

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243 Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof

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[SCHEDULE II.] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

THE INDIAN (SPECIFIED INSTRUMENTS) STAMP ACT, 1924.

ACT NO. XIII OF 1924.[1]

[13th June, 1924.]

An Act to provide for the modification of certain provisions of the Indian Stamp Act, 1899, in their application to certain promissory notes and other instruments.

WHEREAS it is expedient to provide for the modification of certain provisions of the Indian Stamp Act, 1899, in their application to certain promissory notes and other instruments; It is hereby enacted as follows:— II of 18

Short title and extent. **1.** (*1*) This Act may be called the Indian (Specified Instruments) Stamp Act, 1924.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

Definitions. **2.** In this Act,—

(*a*) "instrument to which this Act applies" means—

(i) any instrument mentioned in Article No. 19, No. 36, No. 37 or No. 52 in Schedule I to the Indian Stamp Act, 1899, or II of 189

(ii) any promissory note payable on demand for an amount exceeding two hundred and fifty rupees,

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[1] For Statement of Objects and Reasons, *see* Gazette of India, Extraordinary, 1924, p. 264.

which has been executed in British India at any time after the 30th day of September, 1923, and before the 1st day of April, 1924, and which has been stamped in such a manner that it would have been duly stamped for the purposes of the Indian Stamp Act, 1899 if the Indian Stamp (Amendment) Act, 1923, had not been passed, and

(*b*) "section" means a section of the Indian Stamp Act, 1899

Application of certain provisions of Act II of 1899

3. (*1*) No exception or restriction in respect of promissory notes contained in clause (*a*) of the proviso to section 35 or in sub section (*1*) of section 40 or in section 41 shall be deemed to apply in respect of any promissory note which is an instrument to which this Act applies

(*2*) For the purpose of the application of clause (*a*) of the proviso to section 35 and of sub section (*1*) of section 40 to instruments to which this Act applies nothing therein contained shall be deemed to require or authorise the imposition of any penalty in respect of any such instrument

(*3*) Every instrument to which this Act applies shall be deemed to have been duly stamped for the purposes of section 62

(*4*) Where, before the commencement of this Act any sum has been recovered in respect of any instrument to which this Act applies, by way of fee under sub section (*1*) of section 32, or by way of penalty under the proviso to section 35 or under sub section (*1*) of section 40 or by way of fine under section 62, the person from whom such sum has been recovered shall be entitled to a refund thereof

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THE LAND CUSTOMS ACT, 1924

ACT No XIX OF 1924[1]

[30th September, 1924]

An Act to consolidate, amend and extend the law relating to the levy of duties of customs on articles imported or exported by land from or to territory outside [2][British India]

WHEREAS it is expedient to consolidate, amend and extend the law relating to the levy of duties of customs on articles imported or exported by land from or to territory outside [2][British India], It is hereby enacted as follows —

Short title extent and commencement

1 (*1*) This Act may be called the Land Customs Act 1924

(*2*) It extends to the whole of British India [3]* *

(*3*) It shall come into force on such date[4] as the [5][Central Government] may, by notification in the [6][Official Gazette] appoint

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[1] For Statement of Objects and Reasons see Gazette of India 1924 Pt V p 112 and for Report of Select Committee see *ibid* p 135

[2] Subs by the Land Customs (Amendment) Act 1937 (3 of 1937) s 2 for India

[3] The brackets and words (except India) ins by the A O

[4] 13th December 1924 *see* Cen P & O Vol V p 616

[5] Subs by the A O for G G in C

[6] Subs by the A O for Gazette of India

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) any reference to the passing or import or export of goods "by land" shall be deemed to include the passing or import or export of goods by any inland waterway constituting a foreign frontier or part of a foreign frontier;

(b) "Chief Customs-authority" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924, IV and includes, in relation to any power or duty which the [1][Central Government] may, by notification in the [2][Official Gazette], transfer from the Central Board of Revenue [3][and entrust to a Provincial Government or an officer of a Provincial Government under section 124 (1) of the Government of India Act, 1935, that Government or officer, as the case may be]; 26

(c) "Collector of Land Customs" means a Collector of Land Customs appointed under section 3;

(d) "dutiable goods" means any article on which a duty of land customs is leviable by virtue of a notification issued under VI section 5 of the Indian Tariff Act, 1894[4];

(e) "foreign frontier" means the frontier separating any foreign territory from any part of British India;

(f) "foreign territory" means any territory [5] * * * which has been declared under section 5 of the Indian Tariff Act, 1894,[4] to be foreign territory for the purposes of that Act; VI

(g) "land customs area" means any area adjoining a foreign frontier for which a Collector of Land Customs has been appointed under section 3; and

[6] * * * * * *

Appointment of Land Customs Officers.

3. (1) The [1][Central Government] may, by notification in the [2][Official Gazette], appoint,[7] for any area adjoining a foreign frontier and specified in the notification, a person to be the Collector of Land Customs and such other persons as [8][it] thinks fit to be Land Customs Officers.

(2) The [1][Central Government] may[9] delegate[10] * * * to the Chief Customs-authority any power conferred upon [11][it] by sub-section (1), and [12] * * * the Chief Customs-authority may delegate[9] to

[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "*Gazette of India*".
[3] Subs. by the A. O. for "to a L. G., the L. G. or such officer as the L. G. may appoint in that behalf".
[4] *See* now s. 5 of the Indian Tariff Act, 1934 (32 of 1934).
[5] The brackets and words "(other than territory forming part of a State in India)" rep. by the Land Customs (Amendment) Act, 1937 (3 of 1937), s. 3.
[6] Cl. (*h*) rep. by the A. O.
[7] For Notification making such appointments, *see* Gen. R. & O., Vol. V, pp. 616-617.
[8] Subs. by the A. O. for "he".
[9] For Notifications making such delegations, *see* Gen. R. & O., Vol. V, p. 617.
[10] The words "to any L. G. or" rep. by the A. O.
[11] Subs. by the A. O. for "him".
[12] The words "the L. G. or" rep. by the A. O.

any Collector of Land Customs any power to appoint Land Customs Officers which has been so delegated to it

Establishment of land customs stations and determination of routes

4. The Chief Customs authority may, by notification[1] in the Official Gazette,—

(a) establish land customs stations for the levy of land customs in any land customs area, and

(b) prescribe the routes by which alone goods, or any class of goods specified in the notification, may pass by land out of or into any foreign territory, or to or from any land customs station from or to any foreign frontier

Permit for goods passing across frontier

5 (1) Every person desiring to pass any goods, whether dutiable goods or not, by land out of or into any foreign territory shall apply in writing, in such form[2] as the Chief Customs authority may by notification in the Official Gazette prescribe, for a permit for the passage thereof, to the Land Customs Officer in charge of a land customs station established in a land customs area adjoining the foreign frontier across which the goods are to pass

(2) When the duty on such goods has been paid or the goods have been found by the Land Customs Officer to be free of duty, the Land Customs Officer shall grant a permit certifying that duty has been paid on such goods or that the goods are free of duty, as the case may be

(3) Any Land Customs Officer, duly empowered by the Chief Customs-authority in this behalf, may require any person in charge of any goods which such Officer has reason to believe to have been imported, or to be about to be exported, by land from or to, any foreign territory to produce the permit granted for such goods, and any such goods which are dutiable and which are unaccompanied by a permit or do not correspond with the specification contained in the permit produced, shall be detained and shall be liable to confiscation

Provided that nothing in this sub section shall apply to any imported goods passing from a foreign frontier to a land customs station by a route prescribed in that behalf

(4) The Chief Customs authority may by notification[3] in the Official Gazette, direct that the provisions of this section, or any specified provisions thereof, shall not, in any land customs area specified in the notification, apply in respect of goods of any class or value so specified

Personal baggage

6. A Land Customs Officer empowered in this behalf by the Chief Customs authority shall pass free of duty any goods imported or exported by land by any passenger, if he is satisfied that the goods are t[illegible]ger's personal baggage in actual use

[1] For such Notifications see Gen R & O Vol V, pp 618 620
[2] For Notification prescribing such form see Gen R & O, Vol V,
[3] For such a Notification see Gen R & O Vol V, p 621

Penalties.

7. [1][(1)] Any person who—

(a) in any case in which the permit referred to in section 5 is required, passes or attempts to pass any goods by land out of or into any foreign territory through any land-customs station without such permit, or

(b) conveys or attempts to convey to or from any foreign territory or to or from any land customs station any goods by a route other than the route, if any, prescribed for such passage under this Act, or

(c) aids in so passing or conveying any goods, or, knowing that any goods have been so passed or conveyed, keeps or conceals such goods or permits or procures them to be kept or concealed,

shall be liable to a penalty not exceeding, where the goods are not dutiable, fifty or, where the goods or any of them are dutiable, one thousand rupees, and any dutiable goods in respect of which the offence has been committed shall be liable to confiscation.

[2][(2) Where any dutiable goods, or any goods in respect of which a notification under section 19 of the Sea Customs Act, 1878, prohibiting the bringing or taking by land of such goods into British India or any specified part thereof, has been issued, are passed by land out of any foreign territory and the Land Customs Officer is of opinion that an offence under sub-section (1) has been committed in respect of such goods and that the penalty provided in that sub-section is inadequate, he may make a complaint to a magistrate having jurisdiction. III of

(3) Such magistrate shall thereupon inquire into and try the charge brought against the accused person and, upon conviction, may sentence him to imprisonment of either description for a term which may extend to six months, or to fine not exceeding one thousand rupees, or to both, and may confiscate the goods in respect of which the offence has been committed.]

Goods not to be passed on certain days or at certain times.

8. No goods other than personal baggage or goods belonging to [3][the Crown] or mails shall be delivered or passed at any land customs station, except with the special permission of the Land Customs Officer in charge thereof,—

(a) on any public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881, or on any day on which the passage and delivery of goods at such land customs station has been prohibited by the Chief Customs-authority by notification in the Official Gazette, or XXVI of 1881.

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[1] The original s. 7 was re-numbered as sub-section (1) of that section by s. 2 of the Land Customs (Amendment) Act, 1931 (19 of 1931).

[2] Ins. by s. 2, *ibid.*

[3] Subs. by the A. O. for "Govt."

(*b*) on any day except between such hours as the Chief Customs-authority may, by a like notification,[1] appoint

9. (*1*) The provisions of the Sea Customs Act, 1878 which are specified in the Schedule, together with all notifications, orders, rules or forms issued, made or prescribed thereunder, shall, so far as they are applicable, apply for the purpose of the levy of duties of land customs under this Act in like manner as they apply for the purpose of the levy of dutie of customs on goods imported or exported by sea **Application of Act VIII of 1878**

(*2*) For the purpose of such application the said provisions, notifications, orders, rules and forms may be construed with such alterations as may be necessary or proper to adapt them for the said purpose, but not so as otherwise to affect the substance thereof, and in particular—

(*a*) references to bills of entry and to shipping bills shall be deemed to be references respectively, to applications for permits to import and applications for permits to export such as are referred to in section 5,

(*b*) references to a Chief Customs Officer shall be deemed to be references to a Collector of Land Customs,

(*c*) references to a Customs Collector shall be deemed to be references to a Land Customs Officer for the time being in charge of a land customs station or duly authorised to perform all, or any special, duties of an officer so in charge,

(*d*) references to a custom house shall be deemed to be references to a land customs station,

(*e*) references to a customs port shall be deemed to be references to a land customs area,

(*f*) references to a foreign port shall be deemed to be references to foreign territory,

(*g*) references to goods brought by sea to, and to goods shipped or brought for shipment at, a customs port shall be deemed to be references respectively to goods brought across a foreign frontier into a land customs area and to goods brought to a land customs station for export,

(*h*) references to Officers of Customs shall be deemed to be references to Collectors of Land Customs or Land Customs Officers appointed under this Act,

(*i*) references to persons on board of any vessel or boat in any port or to persons landing shall be deemed to be references to persons who have entered a land customs area from foreign territory, and

(*j*) references to "this Act" shall be deemed to be references to the Sea Customs Act, 1878, as applied for the purposes of this Act, or to this Act, as the case may require

10 [*Operation of Acts VI of 1844 and XXIX of 1857.*] [illegible] *Land Customs (Amendment) Act, 1937 (III of 1937)*, s 4

[1] For such Notifications, see Gen R & O, Vol V, pp. 622-6[illegible]

THE SCHEDULE.

(SEE SECTION 9.)

Provisions of the Sea Customs Act, 1878, which are made applicable for the purpose of the levy of duties of land customs.

Sections 4, 8 to 10, 21, 23, 25, 26, 29 to 36, 37 (except the proviso), 38 to 40, [1][section 88,] section 167, Nos. 1, 8, 9, 37 to 40 and 72 to 80, [2][sections 168] to 176, 178 to 181, 182 to 184, 186 to 197 and 200 to 204.

THE INDIAN SOLDIERS (LITIGATION) ACT, 1925.

ACT NO. IV OF 1925.[3]

[26th February, 1925.]

An Act to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under special conditions.

WHEREAS it is expedient to consolidate and amend the law to provide for the special protection in respect of civil and revenue litigation of Indian soldiers serving under special conditions; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Soldiers (Litigation) Act, 1925.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall come into force on the first day of April, 1925.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Court" means a Civil or Revenue Court;

(*b*) "Indian soldier" means any person subject to the Indian Army Act, 1911, [4][or the Indian Air Force Act, 1932]; VIII 1911 XIV 1932

(*c*) "prescribed" means prescribed by rules made under this Act; and

(*d*) "proceeding" includes any suit, appeal or application.

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[1] Ins. by s. 5 of the Land Customs (Amendment) Act, 1937 (3 of 1937).
[2] Subs. by s. 5, *ibid.*, for "sections 169."
[3] For Statement of Objects and Reasons, *see* Gazette of India, 1924, Pt. V, p. 119, and for Report of Select Committee, *see ibid.*, 1925, Pt. V, p. 11.
[4] Ins. by the Indian Air Force Act, 1932 (14 of 1932), s. 130 and Sch.

Circumstances in which an Indian soldier shall be deemed to be serving under special conditions

3. For the purposes of this Act, an Indian soldier shall be deemed to be or, as the case may be, to have been serving—

(a) under special conditions—when he is or has been serving under war conditions, or overseas, or at any place in Persia, Tibet, Afghanistan, Kashmir, Nepal or China, or with any unit the headquarters of which are situated at any place in Chitral, Waziristan, the North West Frontier Province or British Baluchistan which is more than fifty miles distant by road from the nearest railway station,

(b) under war conditions—when he is or has been, at any time during the continuance of any hostilities declared by the [1][Central Government] by notification in the [2][Official Gazette] to constitute a state of war for the purposes of this Act or at any time during a period of six months thereafter,—

(i) serving out of India,

(ii) under orders to proceed on field service,

(iii) serving with any unit which is for the time being mobilised, or

(iv) serving under conditions which, in the opinion of the prescribed authority, preclude him from obtaining leave of absence to enable him to attend a Court as a party to any proceeding, or when he is or has been at any other time serving under conditions service under which has been declared by the [1][Central Government] by notification[3] in the [2][Official Gazette] to be service under war conditions, and

[4][(c) overseas—when he is or has been serving in any place outside India (other than Ceylon) the journey between which and British India is ordinarily undertaken wholly or in part by sea]

Particulars to be furnished in plaints, applications or appeals to Court

4 If any person presenting any plaint, application or appeal to any Court has reason to believe that any adverse party is an Indian soldier who is serving under special conditions, he shall state the fact in his plaint, application or appeal

Power of Collector to intervene in case of unrepresented Indian soldier

5. If any Collector has reason to believe that any Indian soldier, who ordinarily resides or has property in his district and who is a party to any proceeding pending before any Court, is unable to appear therein, the Collector may certify the facts in the prescribed manner to the Court

Notice to be given in case of unrepresented Indian soldier

6. If a Collector has certified under section 5, or if the Court has reason to believe, that an Indian soldier, who is a party to any proceeding pending before it, is unable to appear therein, and if the soldier is not represented by

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[1] Subs by the A O for "G G in C

[2] Subs by the A O for " Gazette of India"

[3] For such Notifications see Gen R & O, Vol V, p 624

[4] Subs by the A O for the original clause

any person duly authorised to appear, plead or act on his behalf, the Court shall suspend the proceeding, and shall give notice thereof in the prescribed manner to the prescribed authority :

Provided that the Court may refrain from suspending the proceeding and issuing the notice if—

(*a*) the proceeding is a suit, appeal or application instituted or made by the soldier, alone or conjointly with others with the object of enforcing a right of pre-emption, or

(*b*) the interests of the soldier in the proceeding are, in the opinion of the Court, either identical with those of any other party to the proceeding and adequately represented by such other party or merely of a formal nature.

Postponement of proceedings.

7. If, on receipt of a notice under section 6, the prescribed authority certifies in the prescribed manner to the Court in which the proceeding is pending that the soldier in respect of whom the notice was given is serving under special conditions, and that a postponement of the proceeding in respect of the soldier is necessary in the interests of justice, the Court shall thereupon postpone the proceeding in respect of the soldier for the prescribed period, or, if no period has been prescribed, for such period as it thinks fit.

Court may proceed when no certificate received.

8. If, after issue of a notice under section 6, the prescribed authority either certifies that the soldier is not serving under special conditions or that such postponement is not necessary, or fails to certify, in the case of a soldier resident in the district in which the Court is situate, within two months or, in any other case, within three months from the date of the issue of the notice that such postponement is necessary, the Court may, if it thinks fit, continue the proceeding.

Postponement of proceedings against Indian soldier on leave.

9. When any document purporting to be signed by the Commanding Officer of an Indian soldier who is a party to any proceeding is produced by or on behalf of the soldier before the Court in which the proceeding is pending and is to the effect that the soldier—

(*a*) is on leave of absence for a period not exceeding two months, and is on the expiration of his leave to proceed on service under special conditions, or

(*b*) is on sick leave for a period not exceeding three months, and is on the expiration of his leave to rejoin his unit with a view to proceeding on service under special conditions,

the proceeding in respect of such soldier may, in any case such as is referred to in the proviso to section 6, and shall, in any other case, be postponed in the manner provided in section 7.

Power to set aside decrees and orders passed against an Indian soldier serving under

10. (*1*) In any proceeding before a Court in which a decree or order has been passed against any Indian soldier whilst he was serving under war conditions or at any time after the 1st day of April, 1925, whilst he was serving under any special conditions, the soldier may apply to the Court which passed the decree or order for an order to set aside the same, and, if the Court, after giving an opportunity to the opposite party of being heard, is satisfied that the

interests of justice require that the decree or order should be set aside as against the soldier, the Court shall, subject to such conditions, if any, as it thinks fit to impose, make an order accordingly

war or special conditions.

(2) No such application shall be entertained unless it is made within two months from the expiry of the first period of thirty days after the date of the decree or order, or where the summons or notice was not duly served on the applicant, after the date on which the applicant had knowledge of the decree or order, during no part of which the soldier was serving under special conditions

Provided that the provisions of section 5 of the Indian Limitation Act, 1908, shall apply to such applications

(3) When the decree or order in respect of which an application under sub section (1) is made is of such a nature that it cannot be set aside as against the soldier only, it may be set aside as against all or any of the parties against whom it has been made

(4) Where a Court sets aside a decree or order under this section, it shall appoint a day for proceeding with the suit, appeal or application, as the case may be

Modification of law of limitation where Indian soldier serving under war or special conditions is a party

11. In computing the period of limitation prescribed by the Indian Limitation Act, 1908, or any other law for the time being in force for any suit, appeal or application to any Court, any party to which is or has been an Indian soldier, the time during which the soldier has been serving under war conditions since the 4th day of August 1914, or under any special conditions since the 1st day of April, 1925, shall be excluded

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of pre emption

Power of Court to refer question as to whether service was under war or other special conditions

12. If any Court is in doubt whether, for the purposes of section 10 or section 11, any Indian soldier is or was at any particular time serving under war or other special conditions, it may refer the point for the decision of the prescribed authority, and the certificate of that authority shall be conclusive evidence on the point

Rule making power

13 The [1][Central Government] after consulting the High Court [2][concerned] may, by notification in the [3][Official Gazette], make rules to provide for all or any of the following matters, namely —

(a) the manner and form in which any notice or certificate under this Act shall be given,

(b) the period for which proceedings or any class of proceedings shall be postponed under section 7,

[1] Subs by the A O for "L. G

[2] Ins. by the A O

[3] Subs by the A O for "local official Gazette"

any person duly authorised to appear, plead or act on his behalf, the Court shall suspend the proceeding, and shall give notice thereof in the prescribed manner to the prescribed authority:

Provided that the Court may refrain from suspending the proceeding and issuing the notice if—

(*a*) the proceeding is a suit, appeal or application instituted or made by the soldier, alone or conjointly with others with the object of enforcing a right of pre-emption, or

(*b*) the interests of the soldier in the proceeding are, in the opinion of the Court, either identical with those of any other party to the proceeding and adequately represented by such other party or merely of a formal nature.

Postponement of proceedings.

7. If, on receipt of a notice under section 6, the prescribed authority certifies in the prescribed manner to the Court in which the proceeding is pending that the soldier in respect of whom the notice was given is serving under special conditions, and that a postponement of the proceeding in respect of the soldier is necessary in the interests of justice, the Court shall thereupon postpone the proceeding in respect of the soldier for the prescribed period, or, if no period has been prescribed, for such period as it thinks fit.

Court may proceed when no certificate received.

8. If, after issue of a notice under section 6, the prescribed authority either certifies that the soldier is not serving under special conditions or that such postponement is not necessary, or fails to certify, in the case of a soldier resident in the district in which the Court is situate, within two months or, in any other case, within three months from the date of the issue of the notice that such postponement is necessary, the Court may, if it thinks fit, continue the proceeding.

Postponement of proceedings against Indian soldier on leave.

9. When any document purporting to be signed by the Commanding Officer of an Indian soldier who is a party to any proceeding is produced by or on behalf of the soldier before the Court in which the proceeding is pending and is to the effect that the soldier—

(*a*) is on leave of absence for a period not exceeding two months, and is on the expiration of his leave to proceed on service under special conditions, or

(*b*) is on sick leave for a period not exceeding three months, and is on the expiration of his leave to rejoin his unit with a view to proceeding on service under special conditions,

the proceeding in respect of such soldier may, in any case such as is referred to in the proviso to section 6, and shall, in any other case, be postponed in the manner provided in section 7.

Power to set aside decrees and orders passed against an Indian soldier serving under

10. (*1*) In any proceeding before a Court in which a decree or order has been passed against any Indian soldier whilst he was serving under war conditions or at any time after the 1st day of April, 1925, whilst he was serving under any special conditions, the soldier may apply to the Court which passed the decree or order for an order to set aside the same, and, if the Court, after giving an opportunity to the opposite party of being heard, is satisfied that the

nterests of justice require that the decree or order should be set aside as against he soldier, the Court shall, subject to such conditions, if any, as it thinks ht to impose, make an order accordingly.

war or special conditions.

(2) No such application shall be entertained unless it is made within two months from the expiry of the first period of thirty days after the date of the decree or order, or where the summons or notice was not duly served on the applicant, after the date on which the applicant had knowledge of the decree or order, during no part of which the soldier was serving under special conditions:

Provided that the provisions of section 5 of the Indian Limitation Act, 1908, shall apply to such applications.

(3) When the decree or order in respect of which an application under sub-section (1) is made is of such a nature that it cannot be set aside as against the soldier only, it may be set aside as against all or any of the parties against whom it has been made.

(4) Where a Court sets aside a decree or order under this section, it shall appoint a day for proceeding with the suit, appeal or application, as the case may be.

Modification of law of limitation where Indian soldier serving under war or special conditions is a party.

11. In computing the period of limitation prescribed by the Indian Limitation Act, 1908, or any other law for the time being in force for any suit, appeal or application to any Court, any party to which is or has been an Indian soldier, the time during which the soldier has been serving under war conditions since the 4th day of August, 1914, or under any special conditions since the 1st day of April, 1925, shall be excluded:

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of pre-emption.

Power of Court to refer question as to whether service was under war or other special conditions.

12. If any Court is in doubt whether, for the purposes of section 10 or section 11, any Indian soldier is or was at any particular time serving under war or other special conditions, it may refer the point for the decision of the prescribed authority, and the certificate of that authority shall be conclusive evidence on the point.

Rule-making power.

13. The [1][Central Government], after consulting the High Court [2][concerned], may, by notification in the [3][Official Gazette], make rules to provide for all or any of the following matters, namely:—

(a) the manner and form in which any notice or certificate under this Act shall be given;

(b) the period for which proceedings or any class of proceedings shall be postponed under section 7;

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[1] Subs. by the A. O. for "L. G."
[2] Ins. by the A. O.
[3] Subs. by the A. O. for "local official Gazette".

(c) the persons[1] who shall be the prescribed authorities for the purposes of this Act;

(d) any other matter which is to be or may be prescribed; and

(e) generally, any matters incidental to the purposes of this Act.

Power to apply the provisions of the Act to other persons in the service of the Crown.

14. [2][As respects the Provincial Public Services, the Provincial Government, and in other cases, the Central Government,] may, by notification[3] in the [4][Official Gazette], direct that all or any of the provisions of this Act shall apply to any other class of persons in the service of His Majesty specified in such notification in the same manner as they apply to Indian soldiers.

15. [*Repeal of Acts IX of 1918 and XII of 1924.*] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

THE LEGISLATIVE ASSEMBLY (PRESIDENT'S SALARY) ACT, 1925.

ACT NO. VI OF 1925.[5]

[3rd March, 1925.]

An Act to determine the salary of the President of the Legislative Assembly.

WHEREAS it is provided by sub-section (5) of section 63C of the Government of India Act that an elected President of the Legislative Assembly shall receive such salary as may be determined by Act of the Indian Legislature; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Legislative Assembly (President's Salary) Act, 1925.

Salary of elected President.

2. (1) There shall be paid to the elected President of the Legislative Assembly a salary calculated at the rate of four thousand rupees *per mensem*.

(2) The elected President of the Legislative Assembly shall not during his tenure of that office practise any profession or engage in any trade or undertake for remuneration any employment other than his duties as President of the Legislative Assembly.

Act to cease to have effect on establishment of Federation.

[6][**3.** On the establishment of the Federation of India, this Act shall cease to have effect.]

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[1] For persons declared as prescribed authorities under this clause in Baluchistan, *see* Bal. Rules and Orders, Pt. II, p. 244.

[2] Subs. by the *A. O.* for "*The G. G. in C.*"

[3] For Notification directing that all the provisions of this Act shall apply to the Indian personnel of the Hong-Kong Singapore Brigade, Royal Artillery, *see* Gen. R. & O., Vol. V, p. 624.

[4] Subs. by the *A. O.* for "*Gazette of India*".

[5] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 14.

[6] Ins. by the A. O.

THE COTTON GINNING AND PRESSING FACTORIES ACT, 1925.

ACT NO XII OF 1925.[1]

[18th March, 1925.]

An Act to provide for the better regulation of cotton ginning and cotton pressing factories.

WHEREAS it is expedient to provide for the better regulation of cotton ginning and cotton pressing factories, It is hereby enacted as follows —

1. (*1*) This Act may be called the Cotton Ginning and Pressing Factories Act, 1925 — Short title, extent and commencement.

(*2*) It extends to the whole of British India [2] * * *, including British Baluchistan and the Sonthal Parganas

(*3*) It shall come into force on such date[3] as the [4][Central Government] may, by notification in the [5][Official Gazette], appoint

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) " bale " means any pressed package of cotton of whatever size or density,

(*b*) " cotton " means ginned or unginned cotton, or cotton waste,

(*c*) " cotton ginning factory " means any place where cotton is ginned or where cotton fibre is separated from cotton seed by any process whatever involving the use of steam, water or other mechanical power or of electrical power,

(*d*) " cotton pressing factory " means any factory as defined in the Indian Factories Act, 1911[6], in which cotton is pressed into bales,

(*e*) " cotton waste " means droppings, strippings, fly and other waste products of a cotton mill or of a cotton ginning factory or of a cotton pressing factory, but does not include yarn waste,

(*f*) " Indian Central Cotton Committee " means the Indian Central Cotton Committee constituted under the Indian Cotton Cess Act, 1923, and includes any sub committee appointed by it to perform any function of the Indian Central Cotton Committee under this Act, and

(*g*) " occupier " includes a managing agent or other person authorised to represent the occupier,

(*h*) " prescribed " means prescribed by or under rules made under this Act

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[1] For Statement of Objects and Reasons *see* Gazette of India 1924, Pt V, p 115, and for Report of Select Committee, *see* Gazette of India, 1925, Pt V, p 39

and Sind by

[5] Subs by the A O for " Gazette of India "

[6] *See* now the Indian Factories Act, 1934 (25 of 1934), s 2 (j)

Maintenance of registers.

3. (*1*) The owner of every cotton ginning factory shall cause to be maintained at the factory in such form, if any, as may be prescribed, a ginning register containing a record of all cotton ginned in the factory and of the names of the persons for whom and the dates on which the cotton has been ginned and of the amount ginned for each person.

(*2*) The owner of every cotton pressing factory shall cause to be maintained at the factory in such form, if any, as may be prescribed, a press register containing a daily record of the number of bales pressed in the factory, the serial number of each bale, and the name of the person for whom it has been pressed.

(*3*) The owner or the person in charge of a cotton ginning or cotton pressing factory shall be bound to produce any ginning register or press register maintained under this section when required to do so by any person appointed by the [1][Provincial Government] in this behalf, and the owner or person in charge of any cotton pressing factory shall be bound to furnish to the Indian Central Cotton Committee, if so required by it in writing, a copy, certified as correct by the owner or person in charge of the factory, of the entry in any press register maintained at the factory relating to any specified bale.

(*4*) No register required to be maintained by this section shall be destroyed until after the expiration of three years from the date of the last entry therein.

(*5*) If—

(*a*) in any factory any register required by this section to be maintained is not maintained or is maintained in any form other than the form, if any, prescribed for the purpose, or

(*b*) any entry in any such register is proved to be false in any material particular, or

(*c*) any such register is destroyed before the expiration of the period referred to in sub-section (*4*),

the owner of the factory shall be punished with fine which may extend to fifty rupees or, if he has previously been convicted of any offence under this sub-section, to five hundred rupees.

(*6*) If the owner or the person in charge of any factory fails to produce any register, or to furnish a certified copy of any entry, when required to do so under sub-section (*3*), or furnishes a certified copy of an entry knowing or having reason to believe such copy to be false, he shall be punished with fine which may extend to fifty rupees or, if he has previously been convicted of any offence under this sub-section, to five hundred rupees.

Marking of bales.

4. (*1*) The owner of every cotton pressing factory shall cause every bale pressed in the factory to be marked in such manner as may be prescribed, before it is removed from the press-house, with a serial number and with the mark prescribed for the factory.

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[1] Subs. by the A. O. for "L. G."

(2) If any bale is removed from the press house of any cotton pressing factory without having been marked as required by sub section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees

5. (1) The owner of every cotton pressing factory shall submit to the prescribed authority, within such time and in such form as may be prescribed weekly returns showing the total number of bales of cotton pressed during the preceding week and from the commencement of the season to the end of that week, and the approximate average net weight of the bales pressed in that week Returns

(2) The [1][Provincial Government] shall compile from the weekly returns, and shall publish in such manner as [2][it thinks fit], a statement showing the total number of bales pressed in the Province during the week and from the commencement of the season to the end of the week, to which the returns relate

Provided that the number of bales pressed in any individual factory shall not be published

(3) If default is made in submitting any return as required by sub section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees

(4) Where the owner of a cotton pressing factory has notified to the prescribed authority that the work of pressing bales in that factory has been suspended, it shall not be necessary for the owner to submit returns under sub-section (1) until such work has been resumed

Explanation—In this section "season" means the period notified in this behalf by the [1][Provincial Government] in the [3][Official Gazette]

6. (1) No scales or weights shall be used in any cotton ginning or cotton pressing factory other than the scales or weights, if any, prescribed by the [4][Central Government] as standard for the district in which the factory is situated Scales and weights

(2) If in any factory any scale or weight is used in contravention of the provisions of sub section (1), the owner of the factory shall be punished with fine which may extend to fifty rupees or, if he has been previously convicted of any offence under this sub section, to five hundred rupees

7. (1) Where the owner of a cotton ginning or pressing factory has leased the factory for a period of not less than one month in the case of a cotton ginning factory, or three months in the case of a cotton pressing factory, and the lessor retains no interest in the management or profits of the factory and notice of the lease has been given by the lessor and the lessee to the prescribed authority, the lessee shall be deemed to be the owner of the factory, from the date of the notice and for the period of the continuance of the lease, for the purposes of section 3, in respect of the registers maintained or to be Liability of lessee as owner

[1] Subs by the A O for "L. G"
[2] Subs by the A O for "the G G in C may direct".
[3] Subs by the A O for "local official Gazette"
[4] Subs by the A O for "L. G" cf the G of I Act, 1935, Sch VII, List I, entry 51

maintained from that date and for that period, and for the purposes of sections 4, 5 and 6.

(2) On the termination of the lease the lessee shall hand over to the lessor the registers maintained under section 3, and the lessor shall forthwith report to the prescribed authority any default of the lessee in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 3.

(3) If default is made in handing over any register or making any report as required by this section, the lessor or the lessee, as the case may be, shall be punished with fine which may extend to fifty rupees.

Liability on transfer of ownership.

8. (1) On a transfer of the ownership of a cotton ginning or pressing factory, the transferor shall hand over to the transferee the registers maintained under section 3, and the transferee shall forthwith report to the prescribed authority any default of the transferor in complying with the provisions of this sub-section or in maintaining the registers in accordance with the provisions of section 3.

(2) If default is made in handing over any register or making any report as required by sub-section (1), the transferor or the transferee, as the case may be, shall be punished with fine which may extend to fifty rupees.

Structural requirements for factories.

9. (1) In the case of cotton ginning factories the construction of which is commenced after the commencement of this Act—

(a) gin-houses shall be provided with separate entrances and exits for the bringing in of unginned and the taking out of ginned cotton respectively, and

(b) the factories shall be constructed in accordance with plans and specifications approved by the prescribed authority:

Provided that nothing in this sub-section shall apply to any factory in which only roller gins are used where the numbe[illegible] gins is not more than four.

(2) Within such period after the commencem[illegible] ct as m[illegible] prescribed, the owner of every cotton pressing [illegible] h cot[illegible] handled on the ground floor shall cause the pres[illegible] ed o[illegible] vided with other suitable flooring to the satisfacti[illegible] bed [illegible] rity.

(3) If the owne[illegible] ry fails to compl[illegible] section which is ap[illegible] factory, he shall [illegible] may extend to on[illegible]

(4) (a) Where t[illegible] ctory has b[illegible] section (3), the pres[illegible] y serve on an order in writing dir[illegible] tions [illegible] before a specified date, [illegible] the sa[illegible] to secure compliance wi[illegible] as the case may be.

(b) Where the alterat[illegible] served under clause (a) o[illegible] serve on the owner and on

writing directing that the work of ginning or pressing cotton in such factory shall be suspended until the alterations have been made in accordance with the order served under clause (*a*) of this sub section and the owner and the occupier, if any, shall be jointly and severally liable to fine which may extend to fifty rupees for each day on which cotton is ginned or pressed in the factory in contravention of the order served under this clause

10. Where the person guilty of an offence under this Act is a company every director, manager, secretary and other officer thereof who is knowingly a party to the default shall also be guilty of the like offence and liable to the like punishment

Liability of officers of a company

11 (*1*) No prosecution under this Act shall be instituted except by or with the previous sanction of the District Magistrate or a Chief Presidency Magistrate or a Magistrate of the first class specially empowered in this behalf by the [1][Provincial Government]

Cognizance of offences

(*2*) No offence punishable under this Act shall be tried by any Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class

12. The [2][Central Government] may make rules[3] to provide for—

Power of the Central Government to make rules

(*a*) the allotment of a special mark to be used by each pressing factory for the purpose of the marking of bales,

(*b*) the manner in which bales shall be marked, and

[4][(*c*) the standard weights and scales to be used in cotton ginning and cotton pressing factories in any part of British India and the inspection of the same]

13. The [1][Provincial Government] may, by notification in the [5][Official Gazette], make rules consistent with this Act to provide for all or any of the following matters, namely —

Power of the Provincial Government to make rules

(*a*) the forms in which registers, records and returns are to be maintained or submitted, and the inspection of records and registers,

(*b*) the appointment of the authority to whom and the time within which the returns required by section 5 shall be made,

[6]* * * * * * *

(*d*) the appointment of authorities for the purposes of sections 7, 8 and 9,

(*e*) the manner of service of orders made under section 9,

(*f*) the powers of entry and inspection which may be exercised by District Magistrates or by any officer specially empowered in this behalf by the [1][Provincial Government],

(*g*) any other matter which is to be or may be prescribed or for which provision is necessary in order to carry out the purposes of this Act

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[1] Subs by the A O for "L G"
[2] Subs by the A O for "G G in C"
[3] For such rules see Gen R & O, Vol V, p 625
[4] Subs by the A O for the original clause
[5] Subs by the A O for "local official Gazette"
[6] Cl (c) rep by the A O See now cl. (c) of s 12

Power to reject unmarked bales in fulfilment of contracts.

14. After the expiration of one year from the commencement of this Act, any person who has made a contract for the purchase of baled cotton may require that no bales other than bales marked in accordance with section 4 shall be supplied in fulfilment of such contract, and, if he does so require, no bale not so marked shall be tenderable in fulfilment of the contract:

Provided that nothing in this section shall apply to a contract for the sale and delivery of cotton grown before, or less than one year after, the commencement of this Act.

Protection for acts done under Act.

15. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

THE BENGAL CRIMINAL LAW AMENDMENT (SUPPLEMENTARY) ACT, 1925.[1]

[30th March, 1925.]

An Act to supplement the Bengal Criminal Law Amendment Act, 1925.

WHEREAS it is expedient to supplement the Bengal Criminal Law Amendment Act, 1925[2]; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bengal Criminal Law Amendment (Supplementary) Act, 1925.

Definitions.

2. In this Act,—

(*a*) "Code" means the Code of Criminal Procedure, 1898; and

(*b*) "local Act" means the Bengal Criminal Law Amendment Act, 1925[2].

Appeals and confirmations.

3. (*1*) Any person convicted on a trial held by Commissioners under the local Act may appeal to the High Court of Judicature at Fort William in Bengal, and such appeal shall be disposed of by the High Court in the manner provided in Chapter XXXI of the Code.

(*2*) When the Commissioners pass a sentence of death the record of the proceedings before them shall be submitted to the High Court and the sentence shall not be executed unless it is confirmed by the High Court which shall exercise, in respect of such proceedings, all the powers conferred on the High Court by Chapter XXVII of the Code.

4 to 6. [*Power to order custody in jail outside Bengal. Construction. Bar of certain legal proceedings.*] *Rep. by the Bengal Criminal Law Amendment (Supplementary) Act, 1932 (VIII of 1932), s. 5.*

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 79.
This Act was made by the Governor General under the provisions of s. 67B of the Government of India Act. No number was given.

[2] This Act was made by the Governor of Bengal under the provisions of s. 72E of the Government of India Act, *see* Ben. Code.

THE PROVIDENT FUNDS ACT, 1925

ACT NO XIX OF 1925[1]

[27th August, 1925]

An Act to amend and consolidate the law relating to Government and other Provident Funds

WHEREAS it is expedient to amend and consolidate the law relating to Government and other Provident Funds, It is hereby enacted as follows —

Short title, extent and commencement

1. (*1*) This Act may be called the Provident Funds Act, 1925

(*2*) It extends to the whole of British India[2], including British Baluchistan

(*3*) It shall come into force on such date[3] as the [4][Central Government] may, by notification in the [5][Official Gazette], appoint

Definitions

2 In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "compulsory deposit" means a subscription to, or deposit in, a Provident Fund which, under the rules of the Fund, is not, until the happening of some specified contingency, repayable on demand otherwise than for the purpose of the payment of premia in respect of a policy of life insurance [6][or the payment of subscriptions or premia in respect of a family pension fund], and includes any contribution [7] * * * and any interest or increment which has accrued under the rules of the Fund on any such subscription, deposit or contribution, and also any such subscription, deposit, contribution, interest or increment remaining to the credit of the subscriber or depositor after the happening of any such contingency,

(*b*) "contribution" means any amount credited in a Provident Fund, by [8][any authority administering the Fund], by way of addition to, [9][a subscription to, or deposit or balance at the credit of an individual account in,] the Fund, and "contributory Provident Fund" means a Provident Fund the rules of which provide for the crediting of contributions,

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[1] For Statement of Objects and Reasons see Gazette of India 1924 Pt V, p 122

[2] This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation 1936 (4 of 1936) s 3 and Sch and in the Angul District by the Angul Laws Regulation 1936 (5 of 1936) s 3 and Sch

[3] 1st April 1926 see Gen P & O Vol V, p 611

[4] Subs by the A O for G G in C

[5] Subs by the A O for 'Gazette of India

[6] Ins by the Provident Funds (Amendment) Act 1930 (1 of 1930) s 2

[7] The words credited in respect of any such subscription or deposit were rep by s 2, *ibid*

[8] Subs. by the Provident Funds (Amendment) Act, 1925 (28 of 1925), s 2 for ' the authority by which the Fund has been constituted

[9] Subs by Act 1 of 1930, s 2 for or otherwise in respect of, a subscription to, or deposit in '

(c) " dependant " means any of the following relatives of a deceased subscriber to, or a depositor in, a Provident Fund, namely, a wife, husband, parent, child, minor brother, unmarried sister and a deceased son's widow and child, and, where no parent of the subscriber or depositor is alive, a paternal grand-parent ;

(d) " Government Provident Fund " means a Provident Fund, other than a Railway Provident Fund, constituted by the authority of [1][the Secretary of State, the Central Government, the Crown Representative or any Provincial Government] for any class or classes of its employees or [2][of persons employed in educational institutions or employed by bodies existing solely for educational purposes], [3][and references in this Act to the Government shall be construed accordingly] ;

(e) " Provident Fund " means a fund in which subscriptions or deposits of any class or classes of employees are received and held on their individual accounts, and includes any contributions [4] * * * and any interest or increment accruing on such subscriptions, deposits or contributions under the rules of the Fund ;

[5][(f) " Railway administration " means—

(i) any company administering a railway or tramway in British India either under a special Act of Parliament or an Indian law, or under contract with the Crown, or

(ii) the manager of any railway or tramway administered by the Federal Railway Authority or by a Provincial Government,

and includes, in any case referred to in sub-clause (ii), the Federal Railway Authority or the Provincial Government, as the case may be ;]

(g) " Railway Provident Fund " means a Provident Fund constituted by the authority of a railway administration for any class or classes of its employees.

Protection of compulsory deposits.

3. (1) A compulsory deposit in any Government or Railway Provident Fund shall not in any way be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Civil, Revenue or Criminal Court in respect of any debt or liability incurred by the subscriber or depositor, and neither the Official Assignee nor any receiver appointed under the Provincial Insolvency Act, 1920, shall be entitled to, or have any claim on, any such compulsory deposit. V of 19

(2) Any sum standing to the credit of any subscriber to, or depositor in, any such Fund at the time of his decease and payable under the rules of the

[1] Subs. by the A. O. for " the Govt."
[2] Subs. by the Provident Funds (Amendment) Act, 1927 (7 of 1927), s. 2, for " for teachers in educational institutions ".
[3] Ins. by the A. O.
[4] The words " credited in respect of such subscriptions or deposits " rep. by the *Provident Funds (Amendment) Act, 1930 (1 of 1930)*, s. 2.
[5] Subs. by the A. O. for the original definition.

Fund to any dependant of the subscriber or depositor, or to such person as may be authorised by law to receive payment on his behalf, shall, subject to any deduction authorised by this Act and, save where the dependant is the widow or child of the subscriber or depositor, subject also to the rights of an assignee under an assignment made before the commencement of this Act, vest in the dependant, and shall, subject as aforesaid, be free from any debt or other liability incurred by the deceased or incurred by the dependant before the death of the subscriber or depositor

Provisions regarding repayments.

4. (*1*) When under the rules of any Government or Railway Provident Fund the sum standing to the credit of any subscriber or depositor, or the balance thereof after the making of any deduction authorised by this Act, has become payable, the officer whose duty it is to make the payment shall pay the sum or balance, as the case may be, to the subscriber or depositor, or, if he is dead, shall—

(*a*) if the sum or balance, or any part thereof, vests in a dependant under the provisions of section 3, pay the same to the dependant or to such person as may be authorised by law to receive payment on his behalf, or

(*b*) if the whole sum or balance, as the case may be, does not exceed five thousand rupees, pay the same, or any part thereof, which is not payable under clause (*a*), to any person nominated to receive it under the rules of the Fund, or, if no person is so nominated, to any person appearing to him to be otherwise entitled to receive it, or

(*c*) in the case of any sum or balance, or any part thereof which is not payable to any person under clause (*a*) or clause (*b*) pay the same,—

(i) to any person nominated to receive it under the rules of the Fund, on production by such person of probate or letters of administration evidencing the grant to him of administration to the estate of the deceased or a certificate granted under the Succes-
9 sion Certificate Act, 1889[1], or under the Bombay Regulation VIII of 1827, entitling the holder thereof to receive payment of such sum, balance or part, or

(ii) where no person is so nominated, to any person who produces such probate, letters or certificate

Provided that, where the whole or any part of any sum standing to the credit of the subscriber or depositor has been assigned to any other person before the commencement of this Act, and notice in writing of the assignment has been received by the officer from the assignee, the officer shall, after making any deduction authorised by this Act and any payment due under clause (*a*) to or on behalf of the widow or children of the subscriber or depositor—

(i) if the subscriber or depositor or, if he is dead, the person to whom in the absence of any valid assignment the sum or balance

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[1] *See* now the Indian Succession Act, 1925 (39 of 1925)

would be payable under this sub-section gives his consent in writing, pay the sum or part or the balance thereof, as the case may be, to the assignee, or

(ii) if such consent is not forthcoming, withhold payment of the sum, part or balance, as the case may be, pending a decision of a competent Civil Court as to the person entitled to receive it.

(2) The making of any payment authorised by sub-section (1) shall be a full discharge to the Government or the railway administration, as the case may be, from all liability in respect of so much of the sum standing to the credit of the subscriber or depositor as is equivalent to the amount so paid.

Rights of nominees.

5. (1) Subject to the provisions of this Act, but otherwise notwithstanding anything contained in any law for the time being in force or any disposition, whether testamentary or otherwise, by a subscriber to, or depositor in, a Government or Railway Provident Fund of the sum standing to his credit in the Fund, or of any part thereof, any nomination, duly made in accordance with the rules of the Fund, which purports to confer upon any person the right to receive the whole or any part of such sum on the death of the subscriber or depositor, shall be deemed to confer such right absolutely, until such nomination is varied by another nomination made in like manner or is expressly cancelled by the subscriber or depositor by notice given in such manner and to such authority as is prescribed by those rules.

(2) Notwithstanding anything contained in the Succession Certificate Act, 1889[1], or the Bombay Regulation VIII of 1827, any such person shall, on the death of the subscriber or depositor, be entitled to the grant of a certificate under that Act, or that Regulation, as the case may be, entitling him to receive payment of such sum or part, and such certificate shall not be deemed to be invalidated or superseded by any grant to any other person of probate or letters of administration to the estate of the deceased. VII c

Power to make deductions.

6. When the sum standing to the credit of any subscriber or depositor in any Government or Railway Provident Fund which is a contributory Provident Fund becomes payable, there may, if the authority [2][specified in this behalf in the rules of the Fund] so directs, be deducted therefrom and paid to [3][Government or the Railway Administration, as the case may be,]—

(a) any amount due under a liability incurred by the subscriber or depositor to [3][Government or the Railway Administration], but not exceeding in any case the total amount of any contributions credited to the account of the subscriber or depositor and of any interest or increment which has accrued on such contributions; or

(b) where the subscriber or depositor has been dismissed from [4][his employment] for any reasons specified in this behalf in the rules of the Fund, or where he has resigned such employment within

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[1] *See* now the Indian Succession Act, 1925 (39 of 1925).

[2] Subs. by the Provident Funds (Amendment) Act, 1925 (28 of 1925), s. 3, for "by which the Fund has been constituted".

[3] Subs. by s. 3, *ibid.*, for "that authority".

[4] Subs. by s. 3, *ibid.*, for "the employment of that authority".

five years of the commencement thereof, the whole or any part of the amount of any such contributions, interest and increment

Protection for acts done in good faith

7. No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act

Power to apply the Act to the Provident Funds

[1][8 (1)] The [2][appropriate Government] may, by notification in the [3][Official Gazette], direct that the provisions of this Act shall apply[4] to any Provident Fund established for the benefit of its employees by any local authority within
14 the meaning of the Local Authorities Loans Act, 1914, and, on the making of such declaration, this Act shall apply accordingly, as if such Provident Fund were a Government Provident Fund and such local authority were the Government

[5][(2) The [6][appropriate Government] may, by notification in the [Official Gazette], direct that the provisions of this Act shall apply to any Provident Fund established for the benefit of the employees of any of the institutions specified in the Schedule, or of any group of such institutions, and, on the making of such declaration, this Act shall apply accordingly, as if such Provident Fund were a Government Provident Fund and the authority having custody of the Fund were the Government

Provided that section 6 shall apply as if the authority making the contributions referred to in that section were the Government

(3) The [6][appropriate Government] may, by notification in the [7][Official Gazette], add to the Schedule the name of any public institution [8][it] may deem fit, and any such addition shall take effect as if it had been made by this Act]

[9][(4) In this section "the appropriate Government" means—

(a) in relation to a cantonment authority, a port authority for a major port, and any institution which, or the objects of which, appear to the Central Government to fall within List I in
5, the Seventh Schedule to the Government of India Act, 1935, the Central Government, and

(b) in other cases, the Provincial Government

Explanation —" The Provincial Government " in relation to an institu
1860 tion registered under the Societies Registration Act, 1860, means the Provincial Government of the Province in which the society is registered]

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[1] The original s. 8 was re numbered as sub-section (1) of that section by the Provident

Provident Funds established by local

[9] Ins by the A O

Savings as to estates of soldiers.

9. Nothing in section 4 or section 5 shall apply to money belonging to any estate for the purpose of the administration of which the Regimental Debts Act, 1893, applies. 56 Vic

10. [*Repeals.*] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

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[1][THE SCHEDULE.

LIST OF INSTITUTIONS.

[*See sub-section (2) of section 8.*]

1. The Pasteur Institute of India, Kasauli.
2. The Calcutta Improvement Tribunal.
3. A Court of Wards.
4. The Indian Central Cotton Committee.
5. The Trustees for the European Hospital for mental diseases at Ranchi.
6. The National Association for supplying female medical aid to the women of India.
7. A College affiliated to a University established by Statute.]

[2][8. The Indian Coal Grading Board.

9. The Lady Minto's Indian Nursing Association.
10. The Indian Red Cross Society.
11. The Indian Lac Cess Committee.
12. The Madras Provincial Branch of the Indian Red Cross Society.
13. The Imperial Bank of India.
14. The Bihar and Orissa Medical Examination Board.
15. The Punjab University.
16. The Institution created for the control of emigrant labour under the Tea Districts Emigrant Labour Act, 1932.
17. The Bombay Board of Film Censors.
18. The Calcutta University.
19. The Central Board of Irrigation.
20. The Reserve Bank of India.
21. The Trustees of the Victoria Memorial Park, Rangoon.
22. The Benares Hindu University.
23. The Medical Council of India.
24. The Indian Coffee Cess Committee.]

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[1] The Schedule containing items 1 to 7 was added by the Provident Funds (Amendment) Act, 1930 (1 of 1930), s. 4.

[2] Items 8 to 24 were added from time to time by notifications under s. 8 (*3*) of the Act.

THE SALT LAW AMENDMENT ACT, 1925

ACT No. XXII OF 1925 [1]

[11th September, 1925]

An Act to amend the law relating to salt and salt-revenue

WHEREAS, by rules made under section 45A of the Government of India Act, central and provincial subjects have been classified, for the purpose of distinguishing the functions of Local Governments from the functions of the Governor General in Council, and it is, therefore, expedient to amend certain enactments in force in the Presidencies of Fort St George and Bombay relating to salt, being a subject classified in the aforesaid rules as a central subject, so as to vest in the Governor General in Council powers of control in respect of that subject, It is hereby enacted as follows —

Short title and commencement.

1. (*1*) This Act may be called the Salt Law Amendment Act, 1925

(2) It shall come into force on such date[2] or dates as the [3][Central Government] may appoint, and different dates may be appointed for different provisions of this Act and for different parts of British India

Repeal and amendment of certain enactments.

2. The Transport of Salt Act, 1879, the Madras Salt Act, 1889, and the Bombay Salt Act, 1890, are hereby amended to the extent and in the manner stated in the Schedule

Saving of rules, etc made by previous authorities

3. Any appointment, notification, rule, order, licence, pass, permit or power in force before the commencement of this Act and made, issued or conferred by an authority, for the making, issuing or conferring of which a new authority is substituted by or under this Act, shall, unless inconsistent with this Act, be deemed to have been made, issued or conferred by such new authority unless and until cancelled or withdrawn or superseded by an appointment, notification, rule or order made or issued by such new authority

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THE SCHEDULE

[4][*Omitted*]

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[1] For Statement of Objects and Reasons see Gazette of India, 1925, Pt. V, p 165

[2] This Act was brought into force in the Madras Presidency and in the Bombay Presidency excluding Sind and Aden, on 1st January 1926, see Gen R & O, Vol V, p 642 The Act has not been brought into force in Sind

[3] Subs by the A O for "G G in C."

[4] For the Sche [illegible]
the Acts for the ye [illegible]
of the Unrepealed [illegible]
Act in the Madras [illegible]
amendments made [illegible]
III

THE SIKH GURDWARAS (SUPPLEMENTARY) ACT, 1925.

ACT NO. XXIV OF 1925.[1]

[*11th September, 1925.*]

An Act to supplement certain provisions of the Sikh Gurdwaras Act, 1925.

WHEREAS it is expedient to supplement, by legislation in the Indian Legislature, certain provisions of the Sikh Gurdwaras Act, 1925, for the purposes hereinafter appearing; It is hereby enacted as follows:— Punjab VIII 1925.

Short title and commencement.

1. (*1*) This Act may be called the Sikh Gurdwaras (Supplementary) Act, 1925.

(*2*) It shall come into force on the date[2] appointed by the [3][Provincial Government] under sub-section (*3*) of section 1 of the Sikh Gurdwaras Act, 1925. Punjab VIII of 1925.

Validation of certain provisions of Punjab Act VIII of 1925.

2. The Sikh Gurdwaras Act, 1925 (hereinafter referred to as the said Act), shall, *so far as it adds to or takes from the jurisdiction of the High* Court of Judicature at Lahore or prescribes the procedure of the said Court, be as valid as if it had been passed by the Indian Legislature. Punjab VIII of 1925.

3. [*Amendment of section 12, Punjab Act VIII of 1925.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

THE INDIAN CARRIAGE OF GOODS BY SEA ACT, 1925.

ACT NO. XXVI OF 1925.[4]

[*21st September, 1925.*]

An Act to amend the Law with respect to the carriage of goods by sea.

WHEREAS at the International Conference on Maritime Law held at Brussels in October, 1922, the delegates at the Conference, including the delegates representing His Majesty, agreed unanimously to recommend their respective Governments to adopt as the basis of a convention a draft convention for the unification of certain rules relating to bills of lading;

AND WHEREAS at a meeting held at Brussels in October, 1923, the rules contained in the said draft convention were amended by the Committee appointed by the said Conference;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 216.
[2] 1st November, 1925: *see* Punjab Gazette, 1925, Pt. I, p. 712.
[3] Subs. by the A. O. for "L. G."
[4] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 37; and for Report of Joint Committee, *see ibid.*, p. 205.

AND WHEREAS provision has been made by the Carriage of Goods by Sea Act, 1924, that the said rules as so amended and as set out with modifications in the Schedule shall, subject to the provisions of that Act, have the force of law with a view to establishing the responsibilities, liabilities, rights and immunities attaching to carriers under bills of lading,

AND WHEREAS it is expedient that like provision should be made in British India, It is hereby enacted as follows —

1. (*1*) This Act may be called the Indian Carriage of Goods by Sea Act 1925 — Short title and extent.

(*2*) It extends to the whole of British India

2. Subject to the provisions of this Act, the rules set out in the Schedule (hereinafter referred to as "the Rules") shall have effect in relation to and in connection with the carriage of goods by sea in ships carrying goods from any port in British India to any other port whether in or outside British India — Application of Rules

3. There shall not be implied in any contract for the carriage of goods by sea to which the Rules apply any absolute undertaking by the carrier of the goods to provide a seaworthy ship — Absolute warranty of seaworthiness not to be implied in contracts to which Rules apply

4. Every bill of lading, or similar document of title, issued in British India which contains or is evidence of any contract to which the Rules apply, shall contain an express statement that it is to have effect subject to the provisions of the said Rules as applied by this Act — Statement as to application of Rules to be included in bills of lading

5. Article VI of the Rules shall, in relation to— — Modification of Article VI of Rules in relation to goods carried in sailing ships and by prescribed routes

(*a*) the carriage of goods by sea in sailing ships carrying goods from any port in British India to any other port whether in or outside British India, and

(*b*) the carriage of goods by sea in ships carrying goods from a port in British India notified[1] in this behalf in the [2][Official Gazette] by the [3][Central Government] to a port in Ceylon specified in the said notification,

have effect as though the said Article referred to goods of any class instead of to particular goods and as though the proviso to the second paragraph of the said Article were omitted

6. Where under the custom of any trade the weight of any bulk cargo inserted in the bill of lading is a weight ascertained or accepted by a third party other than the carrier or the shipper and the fact that the weight is so ascertained or accepted is stated in the bill of lading, then, notwithstanding anything in the Rules, the bill of lading shall not be deemed to be *prima facie* evidence against the carrier of the receipt of goods of the weight so — Modification of Rules 4 and 5 of Article III in relation to bulk cargoes

[1] For such a notification, *see* Gazette of India, 1925, Pt. I, p 9_0
[2] Subs by the A. O for "Gazette of India"
[3] Subs by the A O for "G G in C.

inserted in the bill of lading, and the accuracy thereof at the time of shipment shall not be deemed to have been guaranteed by the shipper.

Saving and operation.

7. (*1*) Nothing in this Act shall affect the operation of sections four hundred and forty-six to four hundred and fifty, both inclusive, five hundred and two, and five hundred and three of the Merchant Shipping Act, 1894, as amended by any subsequent enactment, or the operation of any other enactment for the time being in force limiting the liability of the owners of sea-going vessels. 57 & Vict

(*2*) The Rules shall not by virtue of this Act apply to any contract for the carriage of goods by sea before such day[1], not being earlier than the first day of January, 1926, as the [2][Central Government] may, by notification in the [3][Official Gazette], appoint, nor to any bill of lading or similar document of title issued, whether before or after such day as aforesaid, in pursuance of any such contract as aforesaid.

SCHEDULE.

RULES RELATING TO BILLS OF LADING.

Article I.

Definitions.

In these Rules the following expressions have the meanings hereby assigned to them respectively, that is to say—

(*a*) "Carrier" includes the owner or the charterer who enters into a contract of carriage with a shipper:

(*b*) "Contract of carriage" applies only to contracts of carriage covered by a bill of lading or any similar document of title, in so far as such document relates to the carriage of goods by sea including any bill of lading or any similar document as aforesaid issued under or pursuant to a charterparty from the moment at which such bill of lading or similar document of title regulates the relations between a carrier and a holder of the same:

(*c*) "Goods" includes goods, wares, merchandises, and articles of every kind whatsoever, except live animals and cargo which by the contract of carriage is stated as being carried on deck and is so carried:

(*d*) "Ship" means any vessel used for the carriage of goods by sea:

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[1] For Notification appointing such day as the 1st of January, 1926, *see* Gazette of India, 1925, Pt. I, p. 950.

[2] Subs. by the A. O. for "G. G. in C."

[3] Subs. by the A. O. for "Gazette of India".

(e) "Carriage of goods" covers the period from the time when the goods are loaded on to the time when they are discharged from the ship

ARTICLE II

Risks

Subject to the provisions of Article VI, under every contract of carriage of goods by sea the carrier, in relation to the loading, handling, stowage, carriage, custody, care, and discharge of such goods, shall be subject to the responsibilities and liabilities, and entitled to the rights and immunities hereinafter set forth

ARTICLE III

Responsibilities and Liabilities

1 The carrier shall be bound, before and at the beginning of the voyage, to exercise due diligence to—

(a) make the ship seaworthy

(b) properly man, equip, and supply the ship

(c) make the holds, refrigerating and cool chambers and all other parts of the ship in which goods are carried, fit and safe for their reception, carriage and preservation

2 Subject to the provisions of Article IV, the carrier shall properly and carefully load, handle, stow, carry, keep, care for and discharge the goods carried

3 After receiving the goods into his charge, the carrier, or the master or agent of the carrier, shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things—

(a) The leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage

(b) Either the number of packages or pieces, or the quantity, or weight, as the case may be, as furnished in writing by the shipper

(c) The apparent order and condition of the goods

Provided that no carrier, master or agent of the carrier, shall be bound to state or show in the bill of lading any marks, number, quantity, or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received, or which he has had no reasonable means of checking

4. Such a bill of lading shall be *primâ facie* evidence of the receipt by the carrier of the goods as therein described in accordance with paragraph 3 (*a*), (*b*) and (*c*).

5. The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of shipment of the marks, number, quantity, and weight, as furnished by him, and the shipper shall indemnify the carrier against all loss, damages, and expenses arising or resulting from inaccuracies in such particulars. The right of the carrier to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.

6. Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under the contract of carriage, or, if the loss or damage be not apparent, within three days, such removal shall be *primâ facie* evidence of the delivery by the carrier of the goods as described in the bill of lading.

The notice in writing need not be given if the state of the goods has at the time of their receipt been the subject of joint survey or inspection.

In any event the carrier and the ship shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered.

In the case of any actual or apprehended loss or damage, the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods.

7. After the goods are loaded the bill of lading to be issued by the carrier, master or agent of the carrier, to the shipper shall, if the shipper so demands, be a "shipped" bill of lading, provided that, if the shipper shall have previously taken up any document of title to such goods, he shall surrender the same as against the issue of the "shipped" bill of lading, but at the option of the carrier, such document of title may be noted at the port of shipment by the carrier, master, or agent with the name or names of the ship or ships upon which the goods have been shipped and the date or dates of shipment, and when so noted the same shall for the purpose of this Article be deemed to constitute a "shipped" bill of lading.

8. Any clause, covenant or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to or in connection with goods arising from negligence, fault or failure in the duties and obligations provided in this Article or lessening such liability otherwise than as provided in these Rules, shall be null and void and of no effect.

A benefit of insurance or similar clause shall be deemed to be a clause relieving the carrier from liability.

ARTICLE IV

Rights and Immunities

1 Neither the carrier nor the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy, and to secure that the ship is properly manned equipped and supplied, and to make the holds, refrigerating and cool chambers and all other parts of the ship in which goods are carried fit and safe for their reception, carriage and preservation in accordance with the provisions of paragraph 1 of Article III

Whenever loss or damage has resulted from unseaworthiness the burden of proving the exercise of due diligence shall be on the carrier or other person claiming exemption under this section

2 Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from—

(*a*) act, neglect, or default of the master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship

(*b*) fire, unless caused by the actual fault or privity of the carrier.

(*c*) perils, dangers and accidents of the sea or other navigable waters:

(*d*) act of God

(*e*) act of war

(*f*) act of public enemies

(*g*) arrest or restraint of princes, rulers or people, or seizure under legal process

(*h*) quarantine restriction

(*i*) act or omission of the shipper or owner of the goods, his agent, or representative

(*j*) strikes or lock-outs or stoppage or restraint of labour from whatever cause, whether partial or general

(*k*) riots and civil commotions

(*l*) saving or attempting to save life or property at sea

(*m*) wastage in bulk or weight or any other loss or damage arising from inherent defect, quality, or vice of the goods

(*n*) insufficiency of packing

(*o*) insufficiency or inadequacy of marks

(*p*) latent defects not discoverable by due diligence

(*q*) any other cause arising without the actual fault or privity of the carrier, or without the fault or neglect of the agents or servants of the carrier, but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage

3. The shipper shall not be responsible for loss or damage sustained by the carrier or the ship arising or resulting from any cause without the act, fault or neglect of the shipper, his agents or his servants.

4. Any *deviation* in saving or attempting to save life or property at sea, or any reasonable deviation shall not be deemed to be an infringement or breach of these Rules or of the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom.

5. Neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with goods in an amount exceeding 100*l.* per package or unit, or the equivalent of that sum in other currency, unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading.

This declaration if embodied in the bill of lading shall be *primâ facie* evidence, but shall not be binding or conclusive on the carrier.

By agreement between the carrier, master or agent of the carrier and the shipper another maximum amount than that mentioned in this paragraph may be fixed, provided that such maximum shall not be less than the figure above named.

Neither the carrier nor the ship shall be responsible in any event for loss or damage to or in connection with goods if the nature or value thereof has been knowingly mis-stated by the shipper in the bill of lading.

6. Goods of an inflammable, explosive or dangerous nature to the shipment whereof the carrier, master or agent of the carrier, has not consented, with knowledge of their nature and character, may at any time before discharge be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the shipper of such goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment.

If any such goods shipped with such knowledge and consent shall become a danger to the ship or cargo, they may in like manner be landed at any place or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any.

Article V.

Surrender of Rights and Immunities, and Increase of Responsibilities and Liabilities.

A carrier shall be at liberty to surrender in whole or in part all or any of his rights and immunities or to increase any of his responsibilities and liabilities under the Rules contained in any of these Articles, provided such surrender or increase shall be embodied in the bill of lading issued to the shipper.

The provisions of these Rules shall not be applicable to charterparties, but if bills of lading are issued in the case of a ship under a charterparty they shall comply with the terms of these Rules. Nothing in these Rules shall

be held to prevent the insertion in a bill of lading of any lawful provision regarding general average

Article VI

Special Conditions

Notwithstanding the provisions of the preceding Articles, a carrier, master or agent of the carrier, and a shipper shall in regard to any particular goods be at liberty to enter into any agreement in any terms as to the responsibility and liability of the carrier for such goods, and as to the rights and immunities of the carrier in respect of such goods, or his obligation as to seaworthiness, so far as this stipulation is not contrary to public policy, or the care or diligence of his servants or agents in regard to the loading, handling, stowage, carriage, custody care and discharge of the goods carried by sea, provided that in this case no bill of lading has been or shall be issued and that the terms agreed shall be embodied in a receipt which shall be a non negotiable document and shall be marked as such

Any agreement so entered into shall have full legal effect

Provided that this Article shall not apply to ordinary commercial shipments made in the ordinary course of trade, but only to other shipments where the character or condition of the property to be carried or the circumstances, terms and conditions under which the carriage is to be performed, are such as reasonably to justify a special agreement

Article VII

Limitations on the Application of the Rules

Nothing herein contained shall prevent a carrier or a shipper from entering into any agreement, stipulation, condition, reservation or exemption as to the responsibility and liability of the carrier or the ship for the loss or damage to or in connection with the custody and care and handling of goods prior to the loading on and subsequent to the discharge from the ship on which the goods are carried by sea

Article VIII

Limitation of liability

The provisions of these Rules shall not affect the rights and obligations of the carrier under any Statute for the time being in force relating to the limitation of the liability of owners of sea going vessels

Article IX.

The monetary units mentioned in these Rules are to be taken to be gold value.

THE COAL GRADING BOARD ACT, 1925.

ACT NO. XXXI OF 1925.[1]

[*23rd September, 1925.*]

An Act to provide for the grading of coal and for the grant of certificates for coal intended for export.

WHEREAS it is expedient to provide for the grading of coal and for the grant of certificates for coal intended for export; It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Coal Grading Board Act, 1925.

(*2*) It extends to the whole of British India.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Board" means the Coal Grading Board constituted under section 3;

(*b*) "export" means the shipment of coal as cargo from a port in British India;

(*c*) "graded colliery" means a colliery the grade of all or any of the seams or of a part of any seam of which has been determined under the provisions of section 4 and is entered in the grade list maintained in accordance with the provisions of section 5;

(*d*) "prescribed" means prescribed by rules made under this Act; and

(*e*) "secretary" means the secretary of the Board appointed under sub-section (*4*) of section 3.

Constitution of Coal Grading Board.

3. (*1*) As soon as may be after the commencement of this Act, the [2][Central Government] shall cause to be constituted[3] a Board consisting of the following members, namely :—

(*a*) the Chief Mining Engineer to the Railway Board [4][or, after the establishment of the Federal Railway Authority, to that Authority]; and

(*b*) four persons nominated respectively by the Indian Mining Association, the Indian Mining Federation, the Bengal Chamber of Commerce and the Bengal National Chamber of Commerce :

Provided that, if within the period prescribed in this behalf any such body fails to make any nomination which it is entitled to make under this sub-section, the [2][Central Government] may [5][itself] appoint a member or members, as the case may be, to fill the vacancy or vacancies.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 184; and for Report of Select Committee, *see ibid.*, p. 210.

[2] Subs. by the A. O. for "G. G. in C."

[3] For constitution of the Board, *see* Notification No. 47-T. (57), dated 20th January 1926, Gazette of India, 1926, Pt. I, p. 148.

[4] Ins. by the A. O.

[5] Subs. by the A. O. for "himself".

(2) The Board so constituted shall be a body corporate by the name of the Coal Grading Board, having perpetual succession and a common seal with power to acquire and hold property, both moveable and immoveable, and to contract and shall by the said name sue and be sued

(3) The Chief Mining Engineer to the Railway Board [1][or, after the establishment of the Federal Railway Authority, to that Authority], shall be *ex-officio* President of the Board

(4) The secretary of the Board shall be a person, not being a member of the Board, appointed by the Board

Power to grade collieries, to revise grading and to grant certificates

4. (1) On the application of any colliery and on payment of the prescribed fee, the Board shall, in such manner as may be prescribed, determine the grade of coal of all or any of the seams or of a part of a seam of such colliery, and shall by notice in writing inform the colliery of the grade so determined

(2) The colliery may, within thirty days from the receipt of the said notice, lodge with the Board an objection to the order passed under sub-section (1) determining the grade of any coal, and the Board shall, on payment of the prescribed fee and after further inspection and analysis, decide such objection, the decision of the Board shall be final and shall not be questioned in any Court

(3) Where the grade of any coal has been determined under the provisions of this section, the Board shall, on the request of the colliery, furnish a certificate in the prescribed form, specifying the grade of such coal

Maintenance and publication of grade list

5. (1) The Board shall maintain a grade list, in such form and containing such particulars as may be prescribed, of coal the grade of which has been determined in accordance with the provisions of section 4, but shall not enter in such list any coal in respect of which the colliery has, after the determination or decision of the Board under sub section (1) or sub section (2) of section 4, given notice in writing that such coal should not be entered in the grade list

(2) The grade list shall be published in such manner as may be prescribed

Grant of export certificate

6. (1) On the application of any graded colliery desiring to export coal and on payment of the prescribed fee, the Board shall, if it is satisfied after such inspection as it may deem necessary with the quality and condition of the coal, grant a certificate of shipment in the prescribed form

(2) Such fee shall not exceed one anna per ton of coal

Powers of inspection.

7. Any member of the Board and any person authorised in this behalf by the Board may, for the purposes of this Act, enter at any time in and upon any colliery, storage bin, truck, vehicle, vessel or other place where there is coal and inspect, test and take sample of such coal

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[1] Ins by the A O

Grant of rebate and preferences.

8. Notwithstanding anything to the contrary in any law for the time being in force, a rebate of any charges, including freight, fees, tolls, dues or rates, may be granted in respect of coal of which a certificate of shipment has been granted under the provisions of section 6, and, subject to such restrictions as may be prescribed, preference may be given in the supply of wagons for forwarding coal for export from a graded colliery.

Application of fees.

9. Subject to such conditions as may be prescribed, the proceeds of fees received by the Board shall be applied to meeting the expenses of the Board.

Validity of acts of Board.

10. No act done or proceeding taken under this Act shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

Protection for acts done under Act.

11. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

Power of the Central Government to make rules.

12. (*1*) The [1][Central Government] may, after previous publication, by notification in the [2][Official Gazette], make rules[3] for the purpose of carrying into effect all or any of the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) for prescribing the time within which nominations shall be made under section 3, whether in the first instance or on the occurrence of vacancies ;

(*b*) for prescribing the term of office of members of the Board ;

(*c*) for prescribing the circumstances in which and the authority by which any member may be removed from the Board ;

(*d*) for regulating the appointment of officers of, and the keeping and publication of accounts by, the Board ;

(*e*) for prescribing the procedure on application under section 4 and the principles for grading coal ;

(*f*) for prescribing the form of and particulars to be entered in and manner of publication of the grade list ;

(*g*) for prescribing the procedure of the Board in deciding any objection lodged against any order passed under section 4 determining the grade of any coal ;

(*h*) for prescribing the form of certificate to be granted under section 6 and the procedure on application under that section ;

(*i*) for prescribing the restrictions subject to which preference may be given under section 8 ;

(*j*) for prescribing the fees for any inspection or analysis required for the purposes of this Act or payable under any of the provisions of this Act ; and

(*k*) for prescribing the remuneration of members and regulating the expenditure of the Board.

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[1] Subs. by the A. O. for " G. G. in C."
[2] Subs. by the A. O. for " Gazette of India ".
[3] For such rules, *see* Gen. R. & O., Vol. V, p. 647.

THE MADRAS, BENGAL AND BOMBAY CHILDREN (SUPPLEMENTARY) ACT, 1925.

ACT NO XXXV OF 1925.[1]

[*23rd September, 1925*]

An Act to supplement certain provisions of the Madras Children Act, 1920, of the Bengal Children Act, 1922, and of the Bombay Children Act, 1924

IV WHEREAS it is expedient to supplement by legislation in the Indian Legislature certain provisions of the Madras Children Act 1920, of the Bengal
II Children Act, 1922, and of the Bombay Children Act, 1924, for the purpose
t hereinafter appearing, It is hereby enacted as follows —

Short title.

1. This Act may be called the Madras, Bengal and Bombay Children (Supplementary) Act, 1925

Validation of certain provisions of Madras Children Act, 1920, Bengal Children Act, 1922, and Bombay Children Act, 1924

2. The Madras Children Act 1920, the Bengal Children Act, 1922, and
'0 II the Bombay Children Act, 1924, shall, so far as regards the appellate and *revisional jurisdiction* conferred by the said Acts on the High Courts of
t Judicature at Madras, at Fort William in Bengal and at Bombay, respectively, be as valid as if the said Acts had been passed by the Indian Legislature

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THE INDIAN SUCCESSION ACT, 1925.

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MISCELLANEOUS

SCHEDULES

ACT No. XXXIX OF 1925.[1]

[*30th September, 1925.*]

An Act to consolidate the law applicable to intestate and testamentary succession in British India.

WHEREAS it is expedient to consolidate the law applicable to intestate and testamentary succession in British India; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

[Sho]rt title. 1. This Act may be called the Indian Succession Act, 1925.

[De]finitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "administrator" means a person appointed by competent authority to administer the estate of a deceased person when there is no executor;

(*b*) "codicil" means an instrument made in relation to a will, and explaining, altering or adding to its dispositions, and shall be deemed to form part of the will;

[2][(*bb*) "District Judge" means the Judge of a principal Civil Court of original jurisdiction;]

(*c*) "executor" means a person to whom the execution of the last will of a deceased person is, by the testator's appointment, confided;

(*d*) "Indian Christian" means a native of India who is, or in good faith claims to be, of unmixed Asiatic descent and who professes any form of the Christian religion;

(*e*) "minor" means any person subject to the Indian Majority Act, 1875, who has not attained his majority within the meaning of that Act, and any other person who has not completed the age of eighteen years; and "minority" means the status of any such person; IX of 1875.

(*f*) "probate" means the copy of a will certified under the seal of a Court of competent jurisdiction with a grant of administration to the estate of the testator;

(*g*) "province" includes any division of British India having a Court of the last resort; and

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1923, Pt. V, p. 401; and for Report of Joint Committee, *see* Gazette of India, 1925, Pt. V, p. 103.

The Act has been extended under the Scheduled Districts Act, 1874 (14 of 1874), to British Baluchistan, *see* Gazette of India, 1925, Pt. II-A, p. 358.

[2] Ins. by the Indian Succession (Amendment) Act, 1929 (18 of 1929), s. 2.

(*Part I —Preliminary Part II —Of Domicile*)

(*h*) " will " means the legal declaration of the intention of a testator with respect to his property which he desires to be carried into effect after his death

3 (*1*) The [1][Provincial Government] may, by notification in the [2][Official Gazette] either retrospectively from the sixteenth day of March, 1865, or prospectively, exempt from the operation of any of the following provisions of this Act, namely, sections 5 to 49, 58 to 191, 212 213 and 215 to 369, the members of any race sect or tribe in the Province or of any part of such race, sect or tribe to whom the [1][Provincial Government] considers it impossible or inexpedient to apply such provisions or any of them mentioned in the order

Power of Provincial Government to exempt any race sect or tribe in the Province from operation of Act

(*2*) The [1][Provincial Government] may, by a like notification revoke any such order, but not so that the revocation shall have retrospective effect

(*3*) Persons exempted under this section or exempted from the operation of any of the provisions of the Indian Succession Act 1865[3] under section 332 of that Act are in this Act referred to as " exempted persons '

PART II

Of Domicile

4 This Part shall not apply if the deceased was a Hindu Muhammadan, Buddhist, Sikh or Jaina

Application of Part

5 (*1*) Succession to the immoveable property in British India of a person deceased shall be regulated by the law of British India, wherever such person may have had his domicile at the time of his death

(*2*) Succession to the moveable property of a person deceased is regulated by the law of the country in which such person had his domicile at the time of his death

Law regulating succession to deceased person s immoveable and moveable property, respectively

Illustrations

(*i*) A having his domicile in British India dies in France leaving moveable property in France moveable property in England and property both moveable and immoveable, in British India The succession to the whole is regulated by the law of British India

(*ii*) A an Englishman having his domicile in France dies in British India and leaves property both moveable and immoveable in British India The succession to the moveable property is regulated by the rules which govern in France the succession to the moveable property of an Englishman dying domiciled in France and the succession to the immoveable property is regulated by the law of British India

6 A person can have only one domicile for the purpose of the succession to his moveable property

One domicile only affects succession to moveables

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[1] Subs by the A O for L G
[2] Subs by the A O for local official Gazette
[3] Rep by this Act

(Part II.—Of Domicile.)

Domicile of origin of person of legitimate birth.

7. The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled; or, if he is a posthumous child, in the country in which his father was domiciled at the time of the father's death.

Illustration.

At the time of the birth of A, his father was domiciled in England. A's domicile of origin is in England, whatever may be the country in which he was born.

Domicile of origin of illegitimate child.

8. The domicile of origin of an illegitimate child is in the country in which, at the time of his birth, his mother was domiciled.

Continuance of domicile of origin.

9. The domicile of origin prevails until a new domicile has been acquired.

Acquisition of new domicile.

10. A man acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin.

Explanation.—A man is not to be deemed to have taken up his fixed habitation in British India merely by reason of his residing there in His Majesty's civil, [1][military, naval or air-force] service, or in the exercise of any profession or calling.

Illustrations.

(*i*) A, whose domicile of origin is in England, proceeds to British India, where he settles as a barrister or a merchant, intending to reside there during the remainder of his life. His domicile is now in British India.

(*ii*) A, whose domicile is in England, goes to Austria, and enters the Austrian service, intending to remain in that service. A has acquired a domicile in Austria.

(*iii*) A, whose domicile of origin is in France, comes to reside in British India under an engagement with the [2][Central Government] for a certain number of years. It is his intention to return to France at the end of that period. He does not acquire a domicile in British India.

(*iv*) A, whose domicile is in England, goes to reside in British India for the purpose of winding up the affairs of a partnership which has been dissolved, and with the intention of returning to England as soon as that purpose is accomplished. He does not by such residence acquire a domicile in British India, however long the residence may last.

(*v*) A, having gone to reside in British India in the circumstances mentioned in the last preceding illustration, afterwards alters his intention, and takes up his fixed habitation in British India. A has acquired a domicile in British India.

(*vi*) A, whose domicile is in the French Settlement of Chandernagore, is compelled by political events to take refuge in Calcutta, and resides in Calcutta for many years in the hope of such political changes as may enable him to return with safety to Chandernagore. He does not by such residence acquire a domicile in British India.

(*vii*) A, having come to Calcutta in the circumstances stated in the last preceding illustration, continues to reside there after such political changes have occurred as would enable him to return with safety to Chandernagore, and he intends that his residence in Calcutta shall be permanent. A has acquired a domicile in British India.

Special mode of acquiring

11. Any person may acquire a domicile in British India by making and depositing in some office in British India, appointed in this behalf by the

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[1] The words "military or air-force" were subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for the words "or military"; and the word "naval" was ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

[2] Subs. by the A. O. for "G. of I."

[1][Provincial Government], a declaration in writing under his hand of his desire to acquire such domicile, provided that he has been resident in British India for one year immediately preceding the time of his making such declaration. domicile in British India.

12. A person who is appointed by the Government of one country to be its ambassador, consul or other representative in another country does not acquire a domicile in the latter country by reason only of residing there in pursuance of his appointment, nor does any other person acquire such domicile by reason only of residing with such first mentioned person as part of his family, or as a servant. Domicile not acquired by residence as representative of foreign Government or as part of his family.

13. A new domicile continues until the former domicile has been resumed or another has been acquired. Continuance of new domicile.

14. The domicile of a minor follows the domicile of the parent from whom he derived his domicile of origin. Minor's domicile.

Exception.—The domicile of a minor does not change with that of his parent, if the minor is married, or holds any office or employment in the service of His Majesty, or has set up, with the consent of the parent, in any distinct business.

15. By marriage a woman acquires the domicile of her husband, if she had not the same domicile before. Domicile acquired by woman on marriage.

16. A wife's domicile during her marriage follows the domicile of her husband. Wife's domicile during marriage.

Exception.—The wife's domicile no longer follows that of her husband if they are separated by the sentence of a competent Court, or if the husband is undergoing a sentence of transportation.

17. Save as hereinbefore otherwise provided in this Part, a person cannot, during minority, acquire a new domicile. Minor's acquisition of new domicile.

18. An insane person cannot acquire a new domicile in any other way than by his domicile following the domicile of another person. Lunatic's acquisition of new domicile.

19. If a person dies leaving moveable property in British India, in the absence of proof of any domicile elsewhere, succession to the property is regulated by the law of British India. Succession to moveable property in British India in absence of proof of domicile elsewhere.

PART III

MARRIAGE

20. (*1*) No person shall, by marriage, acquire any interest in the property of the person whom he or she marries or become incapable of doing any act in respect of his or her own property which he or she could have done if unmarried. Interests and powers not acquired nor lost by marriage.

[1] Subs. by the A. O. for "L. G."

(2) This section—

(a) shall not apply to any marriage contracted before the first day of January, 1866;

(b) shall not apply, and shall be deemed never to have applied, to any marriage one or both of the parties to which professed at the time of the marriage the Hindu, Muhammadan, Buddhist, Sikh or Jaina religion.

Effect of marriage between person domiciled and one not domiciled in British India.

21. If a person whose domicile is not in British India marries in British India a person whose domicile is in British India, neither party acquires by the marriage any rights in respect of any property of the other party not comprised in a settlement made previous to the marriage, which he or she would not acquire thereby if both were domiciled in British India at the time of the marriage.

Settlement of minor's property in contemplation of marriage.

22. (1) The property of a minor may be settled in contemplation of marriage, provided the settlement is made by the minor with the approbation of the minor's father, or, if the father is dead or absent from British India, with the approbation of the High Court.

(2) Nothing in this section or in section 21 shall apply to any will made or intestacy occurring before the first day of January, 1866, or to intestate or testamentary succession to the property of any Hindu, Muhammadan, Buddhist, Sikh or Jaina.

PART IV.

Of Consanguinity.

Application of Part.

23. Nothing in this Part shall apply to any will made or intestacy occurring before the first day of January, 1866, or to intestate or testamentary succession to the property of any Hindu, Muhammadan, Buddhist, Sikh, Jaina or Parsi.

Kindred or consanguinity.

24. Kindred or consanguinity is the connection or relation of persons descended from the same stock or common ancestor.

Lineal consanguinity.

25. (1) Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grandfather and great-grandfather, and so upwards in the direct ascending line; or between a man and his son, grandson, great-grandson and so downwards in the direct descending line.

(2) Every generation constitutes a degree, either ascending or descending.

(3) A person's father is related to him in the first degree, and so likewise is his son; his grandfather and grandson in the second degree; his great-grandfather and great-grandson in the third degree, and so on.

26 (*1*) Collateral consanguinity is that which subsists between two per ons who are descended from the same stock or ancestor, but neither of whom s descended in a direct line from the other

Collateral consanguinity

(2) For the purpose of ascertaining in what degree of kindred any col ateral relative stands to a person deceased, it is necessary to reckon upwards rom the person deceased to the common stock and then downwards to the ollateral relative, a degree being allowed for each person, both ascending nd descending

27. For the purpose of succession, there is no distinction—

Persons held for purpose of succession to be similarly related to deceased

(*a*) between those who are related to a person deceased through his father, and those who are related to him through his mother, or

(*b*) between those who are related to a person deceased by the full blood, and those who are related to him by the half blood, or

(*c*) between those who were actually born in the lifetime of a person deceased and those who at the date of his death were only conceived in the womb, but who have been subsequently born alive

28. Degrees of kindred are computed in the manner set forth in the table of kindred set out in Schedule I

Mode of computing of degrees of kindred

Illustrations

(ii) A grandson of the brother and a son of the uncle, i e a great nephew and a cousin german, are in equal degree being each four degrees removed

(iii) A grandson of a cousin german is in the same degree as the grandson of a great uncle, for they are both in the sixth degree of kindred

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PART V

INTESTATE SUCCESSION

CHAPTER I

PRELIMINARY

29 (*1*) This Part shall not apply to any intestacy occurring before the first day of January, 1866, or to the property of any Hindu, Muhammadan, Buddhist, Sikh or Jaina

Application of Part

(2) Save as provided in sub section (*1*) or by any other law for the time being in force, the provisions of this Part shall constitute the law of British India in all cases of intestacy

As to what property deceased considered to have died intestate.

30. A person is deemed to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

Illustrations.

(*i*) A has left no will. He has died intestate in respect of the whole of his property.

(*ii*) A has left a will, whereby he has appointed B his executor; but the will contains no other provisions. A has died intestate in respect of the distribution of his property.

(*iii*) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.

(*iv*) A has bequeathed 1,000 rupees to B and 1,000 rupees to the eldest son of C, and has made no other bequest: and has died leaving the sum of 2,000 rupees and no other property. C died before A without having ever had a son. A has died intestate in respect of the distribution of 1,000 rupees.

CHAPTER II.

RULES IN CASES OF INTESTATES OTHER THAN PARSIS.

Chapter not to apply to Parsis.

31. Nothing in the Chapter shall apply to Parsis.

Devolution of such property.

32. The property of an intestate devolves upon the wife or husband, or upon those who are of the kindred of the deceased, in the order and according to the rules hereinafter contained in this Chapter.

Explanation.—A widow is not entitled to the provision hereby made for her if, by a valid contract made before her marriage, she has been excluded from her distributive share of her husband's estate.

Where intestate has left widow and lineal descendants, widow kindred, or and kindred.

33. Where the intestate has left a widow—

(*a*) if he has also left any lineal descendants, one-third of his property shall belong to his widow, and the remaining two-thirds shall go to his lineal descendants, according to the rules hereinafter contained;

(*b*) [1][save as provided by section 33A,] if he has left no lineal descendant, but has left persons who are of kindred to him, one-half of his property shall belong to his widow, and the other half shall go to those who are of kindred to him, in the order and according to the rules hereinafter contained;

(*c*) if he has left none who are of kindred to him, the whole of his property shall belong to his widow.

Special provision where intestate has left widow

[2][**33A.** (*1*) Where the intestate has left a widow but no lineal descendants and the nett value of his property does not exceed five thousand rupees, the whole of his property shall belong to the widow.

[1] Ins. by s. 2 of the Indian Succession (Amendment) Act, 1926 (40 of 1926).
[2] Ins. by s. 3, *ibid.*

(2) Where the nett value of the property exceeds the sum of five thousand rupees, the widow shall be entitled to five thousand rupees thereof and shall have a charge upon the whole of such property for such sum of five thousand rupees, with interest thereon from the date of the death of the intestate at 4 per cent. per annum until payment.

and no lineal descendants

(3) The provision for the widow made by this section shall be in addition and without prejudice to her interest and share in the residue of the estate of such intestate remaining after payment of the said sum of five thousand rupees with interest as aforesaid, and such residue shall be distributed in accordance with the provisions of section 33 as if it were the whole of such intestate's property.

(4) The nett value of the property shall be ascertained by deducting from the gross value thereof all debts, and all funeral and administration expenses of the intestate, and all other lawful liabilities and charges to which the property shall be subject.

(5) This section shall not apply—

(a) to the property of—

(i) any Indian Christian;

(ii) any child or grandchild of any male person who is or was at the time of his death an Indian Christian; or

(iii) any person professing the Hindu, Buddhist, Sikh or Jaina religion the succession to whose property is, under section
2 24 of the Special Marriage Act, 1872, regulated by the provisions of this Act;

(b) unless the deceased dies intestate in respect of all his property.]

34. Where the intestate has left no widow, his property shall go to his lineal descendants or to those who are of kindred to him, not being lineal descendants, according to the rules hereinafter contained; and, if he has left none who are of kindred to him, it shall go to the Crown.

Where intestate has left no widow, and where he has left no kindred.

35. A husband surviving his wife has the same rights in respect of her property, if she dies intestate, as a widow has in respect of her husband's property, if he dies intestate.

Rights of widower.

Distribution where there are lineal descendants.

36. The rules for the distribution of the intestate's property (after deducting the widow's share, if he has left a widow) amongst his lineal descendants shall be those contained in sections 37 to 40.

Rules of distribution.

37. Where the intestate has left surviving him a child or children, but no more remote lineal descendant through a deceased child, the property shall belong to his surviving child, if there is only one, or shall be equally divided among all his surviving children.

Where intestate has left child or children only.

Where intestate has left no child, but grandchild or grand-children.

38. Where the intestate has not left surviving him any child, but has left a grandchild or grandchildren and no more remote descendant through a deceased grandchild, the property shall belong to his surviving grandchild if there is only one, or shall be equally divided among all his surviving grand-children.

Illustrations.

(*i*) A has three children, and no more, John, Mary, and Henry. They all die before the father, John leaving two children, Mary three, and Henry four. Afterwards A dies intestate, leaving those nine grandchildren and no descendant of any deceased grandchild. Each of his grandchildren will have one-ninth.

(*ii*) But if Henry has died, leaving no child, then the whole is equally divided between the intestate's five grandchildren, the children of John and Mary.

Where intestate has left only great-grand-children or remoter lineal descendants.

39. In like manner the property shall go to the surviving lineal descendants who are nearest in degree to the intestate, where they are all in the degree of great-grandchildren to him, or are all in a more remote degree.

Where intestate leaves lineal descendants not all in same degree of kindred to him, and those through whom the more remote are descended are dead.

40. (*1*) If the intestate has left lineal descendants who do not all stand in the same degree of kindred to him, and the persons through whom the more remote are descended from him are dead, the property shall be divided into such a number of equal shares as may correspond with the number of the lineal descendants of the intestate who either stood in the nearest degree of kindred to him at his decease, or, having been of the like degree of kindred to him, died before him, leaving lineal descendants who survived him.

(*2*) One of such shares shall be allotted to each of the lineal descendants who stood in the nearest degree of kindred to the intestate at his decease; and one of such shares shall be allotted in respect of each of such deceased lineal descendants; and the share allotted in respect of each of such deceased lineal descendants shall belong to his surviving child or children or more remote lineal descendants, as the case may be; such surviving child or children or more remote lineal descendants always taking the share which his or their parent or parents would have been entitled to respectively if such parent or parents had survived the intestate.

Illustrations.

(*i*) A had three children, John, Mary and Henry; John died, leaving four children, and Mary died, leaving one, and Henry alone survived the father. On the death of A, intestate, one-third is allotted to Henry, one-third to John's four children, and the remaining third to Mary's one child.

(*ii*) A left no child, but left eight grandchildren, and two children of a deceased grand-child. The property is divided into nine parts, one of which is allotted to each grandchild, and the remaining one-ninth is equally divided between the two great-grandchildren.

(*iii*) A has three children, John, Mary and Henry; John dies leaving four children; and one of John's children dies leaving two children. Mary dies leaving one child. A afterwards dies intestate. One-third of his property is allotted to Henry, one-third to Mary's child, and one-third is divided into four parts, one of which is allotted to each of John's three surviving children, and the remaining part is equally divided between John's two grandchildren.

(iv) A has two children and no more, John and Mary. John dies before his father, leaving his wife pregnant. Then A dies leaving Mary surviving him, and in due time a child of John is born. A's property is to be equally divided between Mary and the posthumous child.

Distribution where there are no lineal descendants.

41. Where an intestate has left no lineal descendants, the rules for the distribution of his property (after deducting the widow's share, if he has left a widow) shall be those contained in sections 42 to 48. Rules of distribution where intestate has left no lineal descendants.

42. If the intestate's father is living, he shall succeed to the property. Where intestate's father living.

43. If the intestate's father is dead, but the intestate's mother is living and there are also brothers or sisters of the intestate living, and there is no child living of any deceased brother or sister, the mother and each living brother or sister shall succeed to the property in equal shares. Where intestate's father dead but his mother, brothers and sisters living.

Illustration.

A dies intestate, survived by his mother and two brothers of the full blood, John and Henry, and a sister Mary, who is the daughter of his mother but not of his father. The mother takes one fourth, each brother takes one fourth and Mary, the sister of half blood, takes one fourth.

44. If the intestate's father is dead, but the intestate's mother is living, and if any brother or sister and the child or children of any brother or sister who may have died in the intestate's lifetime are also living, then the mother and each living brother or sister, and the living child or children of each deceased brother or sister, shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death. Where intestate's father dead and his mother, a brother or sister, and children of any deceased brother or sister, living.

Illustration.

[illegible]
a [illegible]
wi [illegible]
each takes one fifth the [illegible]
the remaining one fifth equally between them.

45. If the intestate's father is dead, but the intestate's mother is living, and the brothers and sisters are all dead, but all or any of them have left children who survived the intestate, the mother and the child or children of each deceased brother or sister shall be entitled to the property in equal shares, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death. Where intestate's father dead and his mother and children of any deceased brother or sister living.

Illustration.

[illegible] his mother and one child of a de[illegible] George. The mother takes one-[illegible] George divide the remaining one-

Where intestate's father dead, but his mother living and no brother, sister, nephew or niece.

46. If the intestate's father is dead, but the intestate's mother is living, and there is neither brother, nor sister, nor child of any brother or sister of the intestate, the property shall belong to the mother.

Where intestate has left neither lineal descendant, nor father, nor mother.

47. Where the intestate has left neither lineal descendant, nor father, nor mother, the property shall be divided equally between his brothers and sisters and the child or children of such of them as may have died before him, such children (if more than one) taking in equal shares only the shares which their respective parents would have taken if living at the intestate's death.

Where intestate has left neither lineal descendant, nor parent, nor brother, nor sister.

48. Where the intestate has left neither lineal descendant, nor parent, nor brother, nor sister, his property shall be divided equally among those of his relatives who are in the nearest degree of kindred to him.

Illustrations.

(*i*) A, the intestate, has left a grandfather, and a grandmother and no other relative standing in the same or a nearer degree of kindred to him. They, being in the second degree, will be entitled to the property in equal shares, exclusive of any uncle or aunt of the intestate, uncles and aunts being only in the third degree.

(*ii*) A, the intestate, has left a great-grandfather, or a great-grandmother, and uncles and aunts, and no other relative standing in the same or a nearer degree of kindred to him. All of these being in the third degree will take equal shares.

(*iii*) A, the intestate, left a great-grandfather, an uncle and a nephew, but no relative standing in a nearer degree of kindred to him. All of these being in the third degree will take equal shares.

(*iv*) Ten children of one brother or sister of the intestate, and one child of another brother or sister of the intestate, constitute the class of relatives of the nearest degree of kindred to him. They will each take one-eleventh of the property.

ildren's vance-ιents not brought into hotchpot.

49. Where a distributive share in the property of a person who has died intestate is claimed by a child, or any descendant of a child, of such person, no money or other property which the intestate may, during his life, have paid, given or settled to, or for the advancement of, the child by whom or by whose descendant the claim is made shall be taken into account in estimating such distributive share.

CHAPTER III.

SPECIAL RULES FOR PARSI INTESTATES.

Division of property among widow and children of intestate.

50. Where a Parsi dies leaving a widow and children, the property of which he dies intestate shall be divided among the widow and children, so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter.

51. Where a female Parsi dies leaving a widower and children, the property of which she dies intestate shall be divided among the widower and such children, so that his share shall be double the share of each of the children. Division of property among widower and children of intestate.

52. When a Parsi dies leaving children but no widow, the property of which he dies intestate shall be divided amongst the children, so that the share of each son shall be four times the share of each daughter. Division of property amongst the children of male intestate who leaves no widow.

53. When a female Parsi dies leaving children but no widower, the property of which she dies intestate shall be divided amongst the children in equal shares. Division of property amongst the children of female intestate who leaves no widower.

54. If any child of a Parsi intestate has died in his or her lifetime, the widow or widower and issue of such child shall take the share which such child would have taken if living at the intestate's death in such manner as if such deceased child had died immediately after the intestate's death. Division of pre-deceased child's share of intestate's property among the widow or widower and issue of such child.

55. Where a Parsi dies leaving a widow or widower, but without leaving any lineal descendants,— Division of property when the intestate leaves a widow or widower but no lineal descendants.

(*a*) his or her father and mother, if both are living, or one of them if the other is dead, shall take one moiety of the property in respect of which he or she dies intestate, and the widow or widower shall take the other moiety, provided that, where both the father and the mother of the intestate survive him or her, the father's share shall be double the share of the mother;

(*b*) where neither the father nor the mother of the intestate survives him or her, the intestate's relatives on the father's side, in the order specified in Part I of Schedule II, shall take the moiety which the father and the mother would have taken if they had survived the intestate. The next of kin standing first in Part I of that Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity;

(*c*) where there are no relatives on the father's side, the intestate's widow or widower shall take the whole.

Division of property when the intestate leaves neither widow nor widower, nor lineal descendants.

56. When a Parsi dies leaving neither lineal descendants nor a widow or widower, his or her next-of-kin, in the order set forth in Part II of Schedule II, shall be entitled to succeed to the whole of the property as to which he or she dies intestate. The next-of-kin standing first in Part II of the same Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity.

PART VI.

TESTAMENTARY SUCCESSION.

CHAPTER I.

INTRODUCTORY.

Application of certain provisions of Part to a class of wills made by Hindus, etc.

[1]**57.** The provisions of this Part which are set out in Schedule III shall, subject to the restrictions and modifications specified therein, apply—

(*a*) to all wills and codicils made by any Hindu, Buddhist, Sikh or Jaina, on or after the first day of September, 1870, within the territories which at the said date were subject to the Lieutenant-Governor of Bengal or within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Madras and Bombay; and

(*b*) to all such wills and codicils made outside those territories and limits so far as relates to immoveable property situate within those territories or limits; [2][and

(*c*) to all wills and codicils made by any Hindu, Buddhist, Sikh or Jaina on or after the 1st day of January, 1927, to which those provisions are not applied by clauses (*a*) and (*b*) :]

Provided that marriage shall not revoke any such will or codicil.

General application of Part.

58. (*1*) The provisions of this Part shall not apply to testamentary succession to the property of any Muhammadan nor, save as provided by section 57, to testamentary succession to the property of any Hindu, Buddhist,

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[1] The original s. 57 was re-numbered as sub-section (*1*) of that section, and a new sub-section (*2*) added, by the Indian Succession (Amendment) Act, *1926* (*37 of 1926*), s. *2*; but that sub-section was omitted, and sub-section (*1*) was re-numbered as s. 57, by the Indian Succession (Amendment) Act, 1929 (18 of 1929), s. 3.

[2] Ins. by Act 18 of 1929, s. 3.

Sikh or Jaina , nor shall they apply to any will made before the first day of January, 1866

(2) Save as provided in sub section (1) or by any other law for the time being in force, the provisions of this Part shall constitute the law of British India applicable to all cases of testamentary succession

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CHAPTER II

Of Wills and Codicils

59. Every person of sound mind not being a minor may dispose of his property by will — Person capable of making wills

Explanation 1 —A married woman may dispose by will of any property which she could alienate by her own act during her life

Explanation 2 —Persons who are deaf or dumb or blind are not thereby incapacitated for making a will if they are able to know what they do by it

Explanation 3 —A person who is ordinarily insane may make a will during an interval in which he is of sound mind

Explanation 4 —No person can make a will while he is in such a state of mind, whether arising from intoxication or from illness or from any other cause, that he does not know what he is doing

Illustrations

(ii) A executes an instrument purporting to be his will but he does not understand the nature of the instrument nor the effect of its provisions This instrument is not a valid will.

(iii) A, being very feeble and debilitated, but capable of exercising a judgment as to the proper mode of disposing of his property makes a will This is a valid will

60 A father, whatever his age may be, may by will appoint a guardian or guardians for his child during minority — Testamentary guardian

61. A will or any part of a will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, is void — Will obtained by fraud, coercion, or importunity

Illustrations

(i) A falsely and knowingly represents to the testator that the testator's only child is dead or that he has done some undutiful act and thereby induces the testator to make a will in his, A's, favour, such will has been obtained by fraud and is invalid

(ii) A by fraud and deception prevails upon the testator to bequeath a legacy to him The bequest is void

(iii) A, being a prisoner by lawful authority, makes his will The will is not invalid by reason of the imprisonment

(iv) A threatens to shoot B, or to burn his house or to cause him to be arrested on a criminal charge, unless he makes a bequest in favour of C. B, in consequence, makes a bequest in favour of C. The bequest is void, the making of it having been caused by coercion.

(v) A, being of sufficient intellect, if undisturbed by the influence of others, to make a will yet being so much under the control of B that he is not a free agent, makes a will, dictated by B. It appears that he would not have executed the will but for fear of B. The will is invalid.

(vi) A, being in so feeble a state of health as to be unable to resist importunity, is pressed by B to make a will of a certain purport and does so merely to purchase peace and in submission to B. The will is invalid.

(vii) A being in such a state of health as to be capable of exercising his own judgment and volition, B uses urgent intercession and persuasion with him to induce him to make a will of a certain purport. A, in consequence of the intercession and persuasion, but in the free exercise of his judgment and volition, makes his will in the manner recommended by B. The will is not rendered invalid by the intercession and persuasion of B.

(viii) A, with a view to obtaining a legacy from B, pays him attention and flatters him and thereby produces in him a capricious partiality to A. B, in consequence of such attention and flattery, makes his will, by which he leaves a legacy to A. The bequest is not rendered invalid by the attention and flattery of A.

Will may be revoked or altered.

62. A will is liable to be revoked or altered by the maker of it at any time when he is competent to dispose of his property by will.

CHAPTER III.

OF THE EXECUTION OF UNPRIVILEGED WILLS.

Execution of unprivileged wills.

63. Every testator, not being a soldier employed in an expedition or engaged in actual warfare, [2][or an airman so employed or engaged,] or a mariner at sea, shall execute his will according to the following rules:—

(a) The testator shall sign or shall affix his mark to the will, or it shall be signed by some other person in his presence and by his direction.

(b) The signature or mark of the testator, or the signature of the person signing for him, shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a will.

(c) The will shall be attested by two or more witnesses, each of whom has seen the testator sign or affix his mark to the will or has seen some other person sign the will, in the presence and by the direction of the testator, or has received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person; and each of the witnesses shall sign the will in the presence of the testator, but it shall be necessary that more than one witness be present at time, and no particular form of attestation shall be

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General application of Part.

58. cession to tion 57, to tes

[1] The original s. 57 was tion (2) added, by the India that sub-section was omitted, and Succession (Amendment) Act, 1929 (1

[2] Ins. by Act 18 of 1929, s. 3.

nding Act, 1927 (10 of 1927), s. 2 and Sch. I.

64. If a testator, in a will or codicil duly attested, refers to any other document then actually written as expressing any part of his intentions, such document shall be deemed to form a part of the will or codicil in which it is referred to. Incorporation of papers by reference.

CHAPTER IV.

OF PRIVILEGED WILLS.

65. Any soldier being employed in an expedition or engaged in actual warfare, [1][or an airman so employed or engaged,] or any mariner being at sea, may, if he has completed the age of eighteen years, dispose of his property by a will made in the manner provided in section 66. Such wills are called privileged wills. Privileged wills.

Illustrations.

(i) A, a medical officer attached to a regiment, is actually employed in an expedition. He is a soldier actually employed in an expedition, and can make a privileged will

(ii) A is at sea in a merchant ship, of which he is the purser. He is a mariner, and, being at sea, can make a privileged will

(iii) A, a soldier serving in the field against insurgents, is a soldier engaged in actual warfare, and as such can make a privileged will

(iv) A, a mariner of a ship, in the course of a voyage, is temporarily on shore while she is lying in harbour. He is, for the purposes of this section, a mariner at sea, and can make a privileged will.

(v) A, an admiral who commands a naval force, but who lives on shore, and only occasionally goes on board his ship, is not considered as at sea, and cannot make a privileged will

(vi) A, a mariner serving on a military expedition, but not being at sea, is considered as a soldier, and can make a privileged will.

66. *(1)* Privileged wills may be in writing, or may be made by word of mouth. Mode of making, and rules for executing, privileged wills.

(2) The execution of privileged wills shall be governed by the following rules :—

(*a*) The will may be written wholly by the testator, with his own hand. In such case it need not be signed or attested

(*b*) It may be written wholly or in part by another person, and signed by the testator. In such case it need not be attested.

(*c*) If the instrument purporting to be a will is written wholly or in part by another person and is not signed by the testator, it shall be deemed to be his will, if it is shown that it was written by the testator's directions or that he recognised it as his will.

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[1] Ins. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

(*d*) If it appears on the face of the instrument that the execution of it in the manner intended by the testator was not completed, the instrument shall not, by reason of that circumstance, be invalid, provided that his non-execution of it can be reasonably ascribed to some cause other than the abandonment of the testamentary intentions expressed in the instrument.

(*e*) If the soldier, [1][airman] or mariner has written instructions for the preparation of his will, but has died before it could be prepared and executed, such instructions shall be considered to constitute his will.

(*f*) If the soldier, [1][airman] or mariner has, in the presence of two witnesses, given verbal instructions for the preparation of his will, and they have been reduced into writing in his lifetime, but he has died before the instrument could be prepared and executed, such instructions shall be considered to constitute his will, although they may not have been reduced into writing in his presence, nor read over to him.

(*g*) The soldier, [1][airman] or mariner may make a will by word of mouth by declaring his intentions before two witnesses present at the same time.

(*h*) A will made by word of mouth shall be null at the expiration of one month after the testator, being still alive, has ceased to be entitled to make a privileged will.

CHAPTER V.

OF THE ATTESTATION, REVOCATION, ALTERATION AND REVIVAL OF WILLS.

Effect of gift to attesting witness.

67. A will shall not be deemed to be insufficiently attested by reason of any benefit thereby given either by way of bequest or by way of appointment to any person attesting it, or to his or her wife or husband; but the bequest or appointment shall be void so far as concerns the person so attesting, or the wife or husband of such person, or any person claiming under either of them.

Explanation.—A legatee under a will does not lose his legacy by attesting a codicil which confirms the will.

Witness not disqualified by interest or by being executor.

68. No person, by reason of interest in, or of his being an executor of, a will, shall be disqualified as a witness to prove the execution of the will or to prove the validity or invalidity thereof.

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[1] Ins. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I.

69. Every will shall be revoked by the marriage of the maker, except a will made in exercise of a power of appointment, when the property over which the power of appointment is exercised would not, in default of such appointment, pass to his or her executor or administrator, or to the person entitled in case of intestacy

Revocation of will by testator's marriage

Explanation —Where a man is invested with power to determine the disposition of property of which he is not the owner, he is said to have power to appoint such property

70 No unprivileged will or codicil, nor any part thereof, shall be revoked otherwise than by marriage, or by another will or codicil, or by some writing declaring an intention to revoke the same and executed in the manner in which an unprivileged will is hereinbefore required to be executed, or by the burning, tearing or otherwise destroying the same by the testator or by some person in his presence and by his direction with the intention of revoking the same

Revocation of unprivileged will or codicil

Illustrations

(i) A has made an unprivileged will. Afterwards, A makes another unprivileged will which purports to revoke the first This is a revocation.

(ii) A has made an unprivileged will. Afterwards, A, being entitled to make a privileged will makes a privileged will, which purports to revoke his unprivileged will. This is a revocation

71. No obliteration, interlineation or other alteration made in any unprivileged will after the execution thereof shall have any effect, except so far as the words or meaning of the will have been thereby rendered illegible or undiscernible, unless such alteration has been executed in like manner as hereinbefore is required for the execution of the will

Effect of obliteration, interlineation or alteration in unprivileged will

Provided that the will, as so altered, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses is made in the margin or on some other part of the will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the will

72. A privileged will or codicil may be revoked by the testator by an unprivileged will or codicil, or by any act expressing an intention to revoke it and accompanied by such formalities as would be sufficient to give validity to a privileged will, or by the burning, tearing or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same

Revocation of privileged will or codicil

Explanation —In order to the revocation of a privileged will or codicil by an act accompanied by such formalities as would be sufficient to give validity to a privileged will, it is not necessary that the testator should at the time of doing that act be in a situation which entitles him to make a privileged will

73. *(1)* No unprivileged will or codicil, nor any part thereof, which has been revoked in any manner, shall be revived otherwise than by the

Revival of unprivileged will

re-execution thereof, or by a codicil executed in manner hereinbefore required, and showing an intention to revive the same.

(*2*) When any will or codicil, which has been partly revoked and afterwards wholly revoked, is revived, such revival shall not extend to so much thereof as has been revoked before the revocation of the whole thereof, unless an intention to the contrary is shown by the will or codicil.

CHAPTER VI.

Of the Construction of Wills.

Wording of will.

74. It is not necessary that any technical words or terms of art be used in a will, but only that the wording be such that the intentions of the testator can be known therefrom.

Inquiries to determine questions as to object or subject of will.

75. For the purpose of determining questions as to what person or what property is denoted by any words used in a will, a Court shall inquire into every material fact relating to the persons who claim to be interested under such will, the property which is claimed as the subject of disposition, the circumstances of the testator and of his family, and into every fact a knowledge of which may conduce to the right application of the words which the testator has used.

Illustrations.

(*i*) A, by his will, bequeaths 1,000 rupees to his eldest son or to his youngest grandchild, or to his cousin, Mary. A Court may make inquiry in order to ascertain to what person the description in the will applies.

(*ii*) A, by his will, leaves to B "my estate called Black Acre". It may be necessary to take evidence in order to ascertain what is the subject-matter of the bequest; that is to say, what estate of the testator's is called Black Acre.

(*iii*) A, by his will, leaves to B "the estate which I purchased of C". It may be necessary to take evidence in order to ascertain what estate the testator purchased of C.

Misnomer or misdescription of object.

76. (*1*) Where the words used in a will to designate or describe a legatee or a class of legatees sufficiently show what is meant, an error in the name or description shall not prevent the legacy from taking effect.

(*2*) A mistake in the name of a legatee may be corrected by a description of him, and a mistake in the description of a legatee may be corrected by the name.

Illustrations.

(*i*) A bequeaths a legacy to "Thomas, the second son of my brother John". The testator has an only brother named John, who has no son named Thomas, but has a second son whose name is William. William will have the legacy.

(*ii*) A bequeaths a legacy "to Thomas, the second son of my brother John". The testator has an only brother, named John, whose first son is named Thomas, and whose second son is named William. Thomas will have the legacy.

(*iii*) The testator bequeaths his property "to A and B, the legitimate children of C". C has no legitimate child, but has two illegitimate children, A and B. The bequest to A and B takes effect, although they are illegitimate.

[illegible] l among "my seven children" [illegible] This omission will not prevent [illegible]

(*v*) The testator, having six grandchildren, makes a bequest to "my six grandchildren" and, proceeding to mention them by their Christian names, mentions one twice over omitting another altogether. The one whose name is not mentioned will take a share with the others.

(*vi*) The testator bequeaths "1,000 rupees to each of the three children of A". At the date of the will A has four children. Each of these four children will, if he survives the testator, receive a legacy of 1,000 rupees.

When words may be supplied.

77. Where any word material to the full expression of the meaning has been omitted, it may be supplied by the context.

Illustration.

The testator gives a legacy of "five hundred" to his daughter A and a legacy of "five hundred rupees" to his daughter B. A will take a legacy of five hundred rupees.

Rejection of erroneous *particulars* in description of subject.

78. If the thing which the testator intended to bequeath can be sufficiently identified from the description of it given in the will but some parts of the description do not apply, such parts of the description shall be rejected as erroneous, and the bequest shall take effect.

Illustrations.

(*i*) A bequeaths to B "my marsh-lands lying in L and in the occupation of X". The testator had marsh-lands lying in L but had no marsh-lands in the occupation of X. The words "in the occupation of X" shall be rejected as erroneous, and the marsh-lands of the testator lying in L will pass by the bequest.

(*ii*) The testator bequeaths to A "my zamindari of Rampur". He had an estate at Rampur but it was a taluq and not a zamindari. The taluq passes by this bequest.

When part of description may not be rejected as erroneous.

79. If a will mentions several circumstances as descriptive of the thing which the testator intends to bequeath, and there is any property of his in respect of which all those circumstances exist, the bequest shall be considered as limited to such property, and it shall not be lawful to reject any part of the description as erroneous, because the testator had other property to which such part of the description does not apply.

Explanation.—In judging whether a case falls within the meaning of this section, any words which would be liable to rejection under section 78 shall be deemed to have been struck out of the will.

Illustrations.

(*i*) [illegible]". The testator had mar[illegible] me not in the occupati[illegible]stator's marsh-lands ly[illegible]

(*ii*) A bequeaths to B "my [illegible] 1,000 bighas of lands". The te[illegible] occupation of X and some not i[illegible] to the marsh-lands of either cl[illegible] considered as struck out of the [illegible] the occupation of X shall alone pass by the bequest.

re-execution thereof, or by a codicil executed in manner hereinbefore required, and showing an intention to revive the same.

(*2*) When any will or codicil, which has been partly revoked and afterwards wholly revoked, is revived, such revival shall not extend to so much thereof as has been revoked before the revocation of the whole thereof, unless an intention to the contrary is shown by the will or codicil.

CHAPTER VI.

Of the Construction of Wills.

Wording of will.

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Inquiries to determine questions as to object or subject of will.

75. For the purpose of determining questions as to what person or what property is denoted by any words used in a will, a Court shall inquire into every material fact relating to the persons who claim to be interested under such will, the property which is claimed as the subject of disposition, the circumstances of the testator and of his family, and into every fact a knowledge of which may conduce to the right application of the words which the testator has used.

Illustrations.

(*i*) A, by his will, bequeaths 1,000 rupees to his eldest son or to his youngest grandchild, or to his cousin, Mary. A Court may make inquiry in order to ascertain to what person the description in the will applies.

(*ii*) A, by his will, leaves to B "my estate called Black Acre". It may be necessary to take evidence in order to ascertain what is the subject-matter of the bequest; that is to say, what estate of the testator's is called Black Acre.

(*iii*) A, by his will, leaves to B "the estate which I purchased of C". It may be necessary to take evidence in order to ascertain what estate the testator purchased of C.

Misnomer or misdescription of object.

76. (*1*) Where the words used in a will to designate or describe a legatee or a class of legatees sufficiently show what is meant, an error in the name or description shall not prevent the legacy from taking effect.

(*2*) A mistake in the name of a legatee may be corrected by a description of him, and a mistake in the description of a legatee may be corrected by the name.

Illustrations.

(*i*) A bequeaths a legacy to "Thomas, the second son of my brother John". The testator has an only brother named John, who has no son named Thomas, but has a second son whose name is William. William will have the legacy.

(*ii*) A bequeaths a legacy "to Thomas, the second son of my brother John". The testator has an only brother, named John, whose first son is named Thomas, and whose second son is named William. Thomas will have the legacy.

(iii) The testator bequeaths his property to A and B, the legitimate children of C' C has no legitimate child but has two illegitimate children A and B The bequest to A and B takes effect although they are illegitimate

(iv) The testator gives his residuary estate to be divided among my seven children' and, proceeding to enumerate them mentions six names only This omission will not prevent the seventh child from taking a share with the others

(v) The testator, having six grandchildren makes a bequest to ' my six grandchildren" and proceeding to mention them by their Christian names mentions one twice over omitting another altogether The one whose name is not mentioned will take a share with the others

(vi) The testator bequeaths 1,000 rupees to each of the three children of A At the date of the will A has four children Each of these four children will if he survives the testator, receive a legacy of 1,000 rupees

77. Where any word material to the full expression of the meaning has been omitted it may be supplied by the context — *When words may be supplied*

Illustration

The testator gives a legacy of "five hundred to his daughter A and a legacy of "five hundred rupees' to his daughter B A will take a legacy of five hundred rupees

78. If the thing which the testator intended to bequeath can be sufficiently identified from the description of it given in the will but some parts of the description do not apply, such parts of the description shall be rejected as erroneous, and the bequest shall take effect — *Rejection of erroneous particulars in description of subject*

Illustrations

(i) A bequeaths to B " my marsh lands lying in L and in the occupation of X' The testator had marsh lands lying in L but had no marsh lands in the occupation of X The words ' in the occupation of X shall be rejected as erroneous, and the marsh lands of the testator lying in L will pass by the bequest

(ii) The testator bequeaths to A " my zamindari of Rampur He had an estate at Rampur but it was a taluq and not a zamindari The taluq passes by this bequest

79. If a will mentions several circumstances as descriptive of the thing which the testator intends to bequeath, and there is any property of his in respect of which all those circumstances exist, the bequest shall be considered as limited to such property, and it shall not be lawful to reject any part of the description as erroneous because the testator had other property to which such part of the description does not apply — *When part of description may not be rejected as erroneous*

Explanation —In judging whether a case falls within the meaning of this section any words which would be liable to rejection under section 78 shall be deemed to have been struck out of the will

Illustrations

(i) A beq [illegible] The testator had marsh lar[illegible] me not in the occupation of [illegible] stator's marsh lands lying in L as were in the occupation of X

(ii) A bequeaths to B my [illegible]

[illegible] testator s marsh lands lying in L as were in

(*Part VI.—Testamentary Succession. Chapter VI.—Of the Construction of Wills.*)

Extrinsic evidence admissible in cases of patent ambiguity.

80. Where the words of a will are unambiguous, but it is found by extrinsic evidence that they admit of applications, one only of which can have been intended by the testator, extrinsic evidence may be taken to show which of these applications was intended.

Illustrations.

(*i*) A man, having two cousins of the name of Mary, bequeaths a sum of money to "my cousin Mary". It appears that there are two persons, each answering the description in the will. That description, therefore, admits of two applications, only one of which can have been intended by the testator. Evidence is admissible to show which of the two applications was intended.

(*ii*) A, by his will, leaves to B "my estate called Sultanpur Khurd". It turns out that he had two estates called Sultanpur Khurd. Evidence is admissible to show which estate was intended.

Extrinsic evidence inadmissible in case of patent ambiguity or deficiency.

81. Where there is an ambiguity or deficiency on the face of a will, no extrinsic evidence as to the intentions of the testator shall be admitted.

Illustrations.

(*i*) A man has an aunt, Caroline, and a cousin, Mary, and has no aunt of the name of Mary. By his will he bequeaths 1,000 rupees to "my aunt, Caroline" and 1,000 rupees to "my cousin, Mary" and afterwards bequeaths 2,000 rupees to "my before-mentioned aunt, Mary". There is no person to whom the description given in the will can apply, and evidence is not admissible to show who was meant by "my before-mentioned aunt, Mary". The bequest is therefore void for uncertainty under section 89.

(*ii*) A bequeaths 1,000 rupees to   leaving a blank for the name of the legatee. Evidence is not admissible to show what name the testator intended to insert.

(*iii*) A bequeaths to B   rupees, or "my estate of   ". Evidence is not admissible to show what sum or what estate the testator intended to insert.

Meaning of clause to be collected from entire will.

82. The meaning of any clause in a will is to be collected from the entire instrument, and all its parts are to be construed with reference to each other.

Illustrations.

(*i*) The testator gives to B a specific fund or property at the death of A, and by a subsequent clause gives the whole of his property to A. The effect of the several clauses taken together is to vest the specific fund or property in A for life, and after his decease in B; it appearing from the bequest to B that the testator meant to use in a restricted sense the words in which he describes what he gives to A.

(*ii*) Where a testator having an estate, one part of which is called Black Acre, bequeaths the whole of his estate to A, and in another part of his will bequeaths Black Acre to B, the latter bequest is to be read as an exception out of the first as if he had said "I give Black Acre to B, and all the rest of my estate to A".

When words may be understood in restricted sense, and when in sense wider than usual.

83. General words may be understood in a restricted sense where it may be collected from the will that the testator meant to use them in a restricted sense; and words may be understood in a wider sense than that which they usually bear, where it may be collected from the other words of the will that the testator meant to use them in such wider sense.

Illustrations.

(*i*) A testator gives to A "my farm in the occupation of B", and to C "all my marsh-land in L". Part of the farm in the occupation of B consists of marsh-lands in L, and the testator also has other marsh-lands in L. The general words, "all my marsh-lands in L," are restricted by the gift to A. A takes the whole of the farm in the occupation of B, including that portion of the farm which consists of marsh-lands in L.

(Part VI.—Testamentary Succession. Chapter VI.—Of the Construction of Wills.)

(ii) The testator (a sailor on ship board) bequeathed to his mother his gold ring, buttons and chest of clothes, and to his friend, A (a shipmate), his red box, clasp knife and all things *not before bequeathed* *The testator's share in a house does not pass to A under this bequest.*

(iii) A, by his will, bequeathed to B all his household furniture, plate, linen, china, books, pictures and all other goods of whatever kind, and afterwards bequeathed to B a specified *part of his property* *Under the first bequest, B is entitled only to such articles of the testator's* as are of the same nature with the articles therein enumerated

84. Where a clause is susceptible of two meanings according to one of which it has some effect, and according to the other of which it can have none, the former shall be preferred.

Which of two possible constructions preferred.

85. No part of a will shall be rejected as destitute of meaning if it is possible to put a reasonable construction upon it

No part rejected, if it can be reasonably construed

86. If the same words occur in different parts of the same will, they shall be taken to have been used everywhere in the same sense, unless a contrary intention appears.

Interpretation of words repeated in different parts of will.

87. The intention of the testator shall not be set aside because it cannot take effect to the full extent, but effect is to be given to it as far as possible.

Testator's intention to be effectuated as far as possible

Illustration.

The testator by a will made on his death bed bequeathed all his property to C D for

88. Where two clauses or gifts in a will are irreconcileable so that they cannot possibly stand together, the last shall prevail.

The last of two inconsistent clauses prevails.

Illustrations

(i) The testator by the first clause of his will leaves his estate of Ramnagar "to A", and by the last clause of his will leaves it "to B and not to A". B will have it

(ii) If a man at the commencement of his will gives his house to A, and at the close of it directs that his house shall be sold and the proceeds invested for the benefit of B, the latter disposition will prevail

89. A will or bequest not expressive of any definite intention is void for uncertainty.

Will or bequest void for uncertainty.

Illustration

If a testator says "I bequeath goods to A", or "I bequeath to A", or "I leave to A all the goods mentioned in the Schedule" and no Schedule is found, or "I bequeath 'money', 'wheat', 'oil'," or the like, without saying how much, this is void

90. The description contained in a will of property, the subject of gift, shall, unless a contrary intention appears by the will, be deemed to refer to and comprise the property answering that description at the death of the testator.

Words describing subject refer to property answering description at testator's death.

91. Unless a contrary intention appears by the will, a bequest of the estate of the testator shall be construed to include any property which he may have power to appoint by will to any object he may think proper, and shall operate as an execution of such power; and a bequest of property described in a general

Power of appointment executed by general

manner shall be construed to include any property to which such description may extend, which he may have power to appoint by will to any object he may think proper, and shall operate as an execution of such power.

Implied gift to objects of power in default of appointment.

92. Where property is bequeathed to or for the benefit of certain objects as a specified person may appoint or for the benefit of certain objects in such proportions as a specified person may appoint, and the will does not provide for the event of no appointment being made; if the power given by the will is not exercised, the property belongs to all the objects of the power in equal shares.

Illustration.

A, by his will, bequeaths a fund to his wife, for her life, and directs that at her death it shall be divided among his children in such proportions as she shall appoint. The widow dies without having made any appointment. The fund will be divided equally among the children.

Bequest to "heirs", etc., of particular person without qualifying terms.

93. Where a bequest is made to the "heirs" or "right heirs" or "relations" or "nearest relations" or "family" or "kindred" or "nearest of kin" or "next-of-kin" of a particular person without any qualifying terms, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person and he had died intestate in respect of it, leaving assets for the payment of his debts independently of such property.

Illustrations.

(*i*) A leaves his property "to my own nearest relations". The property goes to those who would be entitled to it if A had died intestate, leaving assests for the payment of his debts independently of such property.

(*ii*) A bequeaths 10,000 rupees "to B for his life, and, after the death of B, to my own right heirs". The legacy after B's death belongs to those who would be entitled to it if it had formed part of A's unbequeathed property.

(*iii*) A leaves his property to B; but if B dies before him, to B's next-of-kin; B dies before A; the property devolves as if it had belonged to B, and he had died intestate, leaving assets for the payment of his debts independently of such property.

(*iv*) A leaves 10,000 rupees "to B for his life, and after his decease to the heirs of C". The legacy goes as if it had belonged to C, and he had died intestate, leaving assets for the payment of his debts independently of the legacy.

Bequest to "representatives", etc., of particular person.

94. Where a bequest is made to the "representatives" or "legal representatives" or "personal representatives" or "executors or administrators" of a particular person, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person and he had died intestate in respect of it.

Illustration.

A bequest is made to the "legal representatives" of A. A has died intestate and insolvent. B is his administrator. B is entitled to receive the legacy, and will apply it in the first place to the discharge of such part of A's debts as may remain unpaid: if there be any surplus B will pay it to those persons who at A's death would have been entitled to receive any property of A's which might remain after payment of his debts, or to the representatives of such persons.

Bequest without words of limitation.

95. Where property is bequeathed to any person, he is entitled to the whole interest of the testator therein, unless it appears from the will that only a restricted interest was intended for him.

96. Where property is bequeathed to a person with a bequest in the alternative to another person or to a class of persons, then, if a contrary intention does not appear by the will, the legatee first named shall be entitled to the legacy if he is alive at the time when it takes effect, but if he is then dead, the person or class of persons named in the second branch of the alternative shall take the legacy. Bequest in alternative

Illustrations

(i) A bequest is made to A or to B. A survives the testator. B takes nothing.

(ii) A bequest is made to A or to B. A dies after the date of the will, and before the testator. The legacy goes to B.

(iii) A bequest is made to A or to B. A is dead at the date of the will. The legacy goes to B.

(iv) Property is bequeathed to A or his heirs. A survives the testator. A takes the property absolutely.

(v) Property is bequeathed to A or his nearest of kin. A dies in the lifetime of the testator. Upon the death of the testator, the bequest to A's nearest of kin takes effect.

(vi) Property is bequeathed to A for life, and after his death to B or his heirs. A and B survive the testator. B dies in A's lifetime. Upon A's death the bequest to the heirs of B takes effect.

(vii) Property is bequeathed to A for life, and after his death to B or his heirs. B dies in the testator's lifetime. A survives the testator. Upon A's death the bequest to the heirs of B takes effect.

97. Where property is bequeathed to a person, and words are added which describe a class of persons but do not denote them as direct objects of a distinct and independent gift, such person is entitled to the whole interest of the testator therein, unless a contrary intention appears by the will. Effect of words describing a class added to bequest to person

Illustrations

(i) A bequest is made—

to A and his children,
to A and his children by his present wife,
to A and his heirs,
to A and the heirs of his body,
to A and the heirs male of his body,
to A and the heirs female of his body,
to A and his issue,
to A and his family,
to A and his descendants,
to A and his representatives,
to A and his personal representatives,
to A, his executors and administrators.

In each of these cases, A takes the whole interest which the testator had in the property.

(ii) A bequest is made to A and his brothers. A and his brothers are jointly entitled to the legacy.

(iii) A bequest is made to A for life and after his death to his issue. At the death of A the property belongs in equal shares to all persons who then answer the description of issue of A.

98. Where a bequest is made to a class of persons under a general description only, no one to whom the words of the description are not in their ordinary sense applicable shall take the legacy. Bequest to class of persons under general description only

manner shall be construed to include any property to which such description may extend, which he may have power to appoint by will to any object he may think proper, and shall operate as an execution of such power.

Implied gift to objects of power in default of appointment.

92. Where property is bequeathed to or for the benefit of certain objects as a specified person may appoint or for the benefit of certain objects in such proportions as a specified person may appoint, and the will does not provide for the event of no appointment being made; if the power given by the will is not exercised, the property belongs to all the objects of the power in equal shares.

Illustration.

A, by his will, bequeaths a fund to his wife, for her life, and directs that at her death it shall be divided among his children in such proportions as she shall appoint. The widow dies without having made any appointment. The fund will be divided equally among the children.

Bequest to "heirs", etc., of particular person without qualifying terms.

93. Where a bequest is made to the "heirs" or "right heirs" or "relations" or "nearest relations" or "family" or "kindred" or "nearest of kin" or "next-of-kin" of a particular person without any qualifying terms, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person and he had died intestate in respect of it, leaving assets for the payment of his debts independently of such property.

Illustrations.

(*i*) A leaves his property "to my own nearest relations". The property goes to those who would be entitled to it if A had died intestate, leaving assests for the payment of his debts independently of such property.

(*ii*) A bequeaths 10,000 rupees "to B for his life, and, after the death of B, to my own right heirs". The legacy after B's death belongs to those who would be entitled to it if it had formed part of A's unbequeathed property.

(*iii*) A leaves his property to B; but if B dies before him, to B's next-of-kin; B dies before A; the property devolves as if it had belonged to B, and he had died intestate, leaving assets for the payment of his debts independently of such property.

(*iv*) A leaves 10,000 rupees "to B for his life, and after his decease to the heirs of C". The legacy goes as if it had belonged to C, and he had died intestate, leaving assets for the payment of his debts independently of the legacy.

Bequest to "representatives", etc., of particular person.

94. Where a bequest is made to the "representatives" or "legal representatives" or "personal representatives" or "executors or administrators" of a particular person, and the class so designated forms the direct and independent object of the bequest, the property bequeathed shall be distributed as if it had belonged to such person and he had died intestate in respect of it.

Illustration.

A bequest is made to the "legal representatives" of A. A has died intestate and insolvent. B is his administrator. B is entitled to receive the legacy, and will apply it in the first place to the discharge of such part of A's debts as may remain unpaid: if there be any surplus B will pay it to those persons who at A's death would have been entitled to receive any property of A's which might remain after payment of his debts, or to the representatives of such persons.

Bequest without words of limitation.

95. Where property is bequeathed to any person, he is entitled to the whole interest of the testator therein, unless it appears from the will that only a restricted interest was intended for him.

96. Where property is bequeathed to a person with a bequest in the alternative to another person or to a class of persons, then, if a contrary intention does not appear by the will, the legatee first named shall be entitled to the legacy if he is alive at the time when it takes effect; but if he is then dead, the person or class of persons named in the second branch of the alternative shall take the legacy. Bequest in alternative.

Illustrations.

(i) A bequest is made to A or to B. A survives the testator. B takes nothing.

(ii) A bequest is made to A or to B. A dies after the date of the will, and before the testator. The legacy goes to B.

(iii) A bequest is made to A or to B. A is dead at the date of the will. The legacy goes to B.

(iv) Property is bequeathed to A or his heirs. A survives the testator. A takes the property absolutely.

(v) Property is bequeathed to A or his nearest of kin. A dies in the lifetime of the testator. Upon the death of the testator, the bequest to A's nearest of kin takes effect.

(vi) Property is bequeathed to A for life, and after his death to B or his heirs. A and B survive the testator. B dies in A's lifetime. Upon A's death the bequest to the heirs of B takes effect.

(vii) Property is bequeathed to A for life, and after his death to B or his heirs. B dies in the testator's lifetime. A survives the testator. Upon A's death the bequest to the heirs of B takes effect.

97. Where property is bequeathed to a person, and words are added which describe a class of persons but do not denote them as direct objects of a distinct and independent gift, such person is entitled to the whole interest of the testator therein, unless a contrary intention appears by the will. Effect of words describing a class added to bequest to person.

Illustrations.

(i) A bequest is made—

to A and his children,

to A and his children by his present wife,

to A and his heirs,

to A and the heirs of his body,

to A and the heirs male of his body,

to A and the heirs female of his body,

to A and his issue,

to A and his family,

to A and his descendants,

to A and his representatives,

to A and his personal representatives,

to A, his executors and administrators.

In each of these cases, A takes the whole interest which the testator had in the property.

(ii) A bequest is made to A and his brothers. A and his brothers are jointly entitled to the legacy.

(iii) A bequest is made to A for life and after his death to his issue. At the death of A the property belongs in equal shares to all persons who then answer the description of issue of A.

98. Where a bequest is made to a class of persons under a general description only, no one to whom the words of the description are not in their ordinary sense applicable shall take the legacy. Bequest to class of persons under general description only.

(*Part VI.—Testamentary Succession. Chapter VI.—Of the Construction of Wills.*)

Construction of terms.

99. In a will—

(*a*) the word "children" applies only to lineal descendants in the first degree of the person whose "children" are spoken of;

(*b*) the word "grandchildren" applies only to lineal descendants in the second degree of the person whose "grandchildren" are spoken of;

(*c*) the words "nephews" and "nieces" apply only to children of brothers or sisters;

(*d*) the words "cousins", or "first cousins", or "cousins-german", apply only to children of brothers or of sisters of the father or mother of the person whose "cousins", or "first cousins", or "cousins-german", are spoken of;

(*e*) the words "first cousins once removed" apply only to children of cousins-german, or to cousins-german of a parent of the person whose "first cousins once removed" are spoken of;

(*f*) the words "second cousins" apply only to grandchildren of brothers or of sisters of the grandfather or grandmother of the person whose "second cousins" are spoken of;

(*g*) the words "issue" and "descendants" apply to all lineal descendants whatever of the person whose "issue" or "descendants" are spoken of;

(*h*) words expressive of collateral relationship apply alike to relatives of full and of half blood; and

(*i*) all words expressive of relationship apply to a child in the womb who is afterwards born alive.

Words expressing relationship denote only legitimate relatives or failing such relatives reputed legitimate.

100. In the absence of any intimation to the contrary in a will, the word "child", the word "son", the word "daughter", or any word which expresses relationship, is to be understood as denoting only a legitimate relative, or, where there is no such legitimate relative, a person who has acquired, at the date of the will, the reputation of being such relative.

Illustrations.

(*i*) A having three children, B, C and D, of whom B and C are legitimate and D is illegitimate, leaves his property to be equally divided among "my children". The property belongs to B and C in equal shares, to the exclusion of D.

(*ii*) A, having a niece of illegitimate birth, who has acquired the reputation of being his niece, and having no legitimate niece, bequeaths a sum of money to his niece. The illegitimate niece is entitled to the legacy.

(*iii*) A, having in his will enumerated his children, and named as one of them B, who is illegitimate, leaves a legacy to "my said children". B will take a share in the legacy along with the legitimate children.

(*iv*) A leaves a legacy to "the children of B". B is dead and has left none but illegitimate children. All those who had at the date of the will acquired the reputation of being the children of B are objects of the gift.

(*v*) A bequeaths a legacy to "the children of B". B never had any legitimate child. C and D had, at the date of the will, acquired the reputation of being children of B. After the date of the will and before the death of the testator, E and F were born, and acquired the reputation of being children of B. Only C and D are objects of the bequest.

(vi) A makes a bequest in favour of his child by a certain woman, not his wife B had acquired at the date of the will the reputation of being the child of A by the woman designated B takes the legacy

(vii) A makes a bequest in favour of his child to be born of a woman who never becomes his wife The bequest is void

(viii) A makes a bequest in favour of the child of which a certain woman, not married to him is pregnant The bequest is valid

101. Where a will purports to make two bequests to the same person, and a question arises whether the testator intended to make the second bequest instead of or in addition to the first, if there is nothing in the will to show what he intended, the following rules shall have effect in determining the construction to be put upon the will — Rules of construction where will purports to make two bequests to same person.

(*a*) If the same specific thing is bequeathed twice to the same legatee in the same will or in the will and again in the codicil, he is entitled to receive that specific thing only

(*b*) Where one and the same will or one and the same codicil purports to make, in two places, a bequest to the same person of the same quantity or amount of anything he shall be entitled to one such legacy only

(*c*) Where two legacies of unequal amount are given to the same person in the same will, or in the same codicil, the legatee is entitled to both

(*d*) Where two legacies, whether equal or unequal in amount, are given to the same legatee, one by a will and the other by a codicil, or each by a different codicil, the legatee is entitled to both legacies

Explanation —In clauses (*a*) to (*d*) of this section, the word "will" does not include a codicil

Illustrations

(i) A, having [illegible] contains near its c[illegible] India to B Aft[illegible] shares in the Imp[illegible] the Imperial Bank of India

[illegible] by B, bequeaths to C the diamond [illegible] his will and thereby after giving [illegible] was given him by B C can claim [illegible]

(iii) A, by his will bequeaths to B the sum of 5 000 rupees and afterwards in the same will repeats the bequest in the same words B is entitled to one legacy of 5 000 rupees only

(iv) A, by his will bequeaths to B the sum of 5,000 rupees and afterwards in the same will bequeaths to B the sum of 6 000 rupees B is entitled to receive 11 000 rupees

(v) A by his will bequeaths to B 5 000 rupees and by a codicil to the will he bequeaths to him 5 000 rupees B is entitled to receive 10 000 rupees

(vi) A, by one codicil to his will bequeaths to B 5 000 rupees and by another codicil bequeaths to him 6 000 rupees B is entitled to receive 11 000 rupees

(vii) A, by his will, bequeaths '500 rupees to B because she was my nurse', and in another part of the will bequeaths 500 rupees to B 'because she went to England with my children'. B is entitled to receive 1 000 rupees

(viii) A, by his will, bequeaths to B the sum of 5 000 rupees and also in another part of the will, an annuity of 400 rupees B is entitled to both legacies

(*iv*) A, by his will, bequeaths to B the sum of 5,000 rupees and also bequeaths to him the sum of 5,000 rupees if he shall attain the age of 18. B is entitled absolutely to one sum of 5,000 rupees, and takes a contingent interest in another sum of 5,000 rupees.

Constitution of residuary legatee.

102. A residuary legatee may be constituted by any words that show an intention on the part of the testator that the person designated shall take the surplus or residue of his property.

Illustrations.

(*i*) A makes her will, consisting of several testamentary papers, in one of which are contained the following words:—"I think there will be something left, after all funeral expenses, etc., to give to B, now at school, towards equipping him to any profession he may hereafter be appointed to". B is constituted residuary legatee.

(*ii*) A makes his will, with the following passage at the end of it:—"I believe there will be found sufficient in my banker's hands to defray and discharge my debts, which I hereby desire B to do, and keep the residue for her own use and pleasure." B is constituted the residuary legatee.

(*iii*) A bequeaths all his property to B, except certain stocks and funds, which he bequeaths to C. B is the residuary legatee.

Property to which residuary legatee entitled.

103. Under a residuary bequest, the legatee is entitled to all property belonging to the testator at the time of his death, of which he has not made any other testamentary disposition which is capable of taking effect.

Illustration.

A by his will bequeaths certain legacies, of which one is void under section 118, and another lapses by the death of the legatee. He bequeaths the residue of his property to B. After the date of his will A purchases a zamindari, which belongs to him at the time of his death. B is entitled to the two legacies and the zamindari as part of the residue.

Time of vesting legacy in general terms.

104. If a legacy is given in general terms, without specifying the time when it is to be paid, the legatee has a vested interest in it from the day of the death of the testator, and, if he dies without having received it, it shall pass to his representatives.

In what case legacy lapses.

105. (*1*) If the legatee does not survive the testator, the legacy cannot take effect, but shall lapse and form part of the residue of the testator's property, unless it appears by the will that the testator intended that it should go to some other person.

(*2*) In order to entitle the representatives of the legatee to receive the legacy, it must be proved that he survived the testator.

Illustrations.

(*i*) The testator bequeaths to B "500 rupees which B owes me". B dies before the testator; the legacy lapses.

(*ii*) A bequest is made to A and his children. A dies before the testator, or happens to be dead when the will is made. The legacy to A and his children lapses.

(*iii*) A legacy is given to A, and, in case of his dying before the testator, to B. A dies before the testator. The legacy goes to B.

(*iv*) A sum of money is bequeathed to A for life, and after his death to B. A dies in the lifetime of the testator; B survives the testator. The bequest to B takes effect.

(*v*) A sum of money is bequeathed to A on his completing his eighteenth year, and in case he should die before he completes his eighteenth year, to B. A completes his eighteenth year, and dies in the lifetime of the testator. The legacy to A lapses, and the bequest to B does not take effect.

(*vi*) The testator and the legatee perished in the same ship-wreck. There is no evidence to show which died first. The legacy lapses.

106. If a legacy is given to two persons jointly, and one of them dies before the testator, the other legatee takes the whole. Legacy does not lapse if one of two joint legatees die before testator

Illustration

The legacy is simply to A and B. A dies before the testator. B takes the legacy.

107. If a legacy is given to legatees in words which show that the testator intended to give them distinct shares of it, then, if any legatee dies before the testator, so much of the legacy as was intended for him shall fall into the residue of the testator's property. Effect of words showing testator's intention to give distinct shares

Illustration

A sum of money is bequeathed to A, B and C, to be equally divided among them. A dies before the testator. B and C will only take so much as they would have had if A had survived the testator.

108. Where a share which lapses is a part of the general residue bequeathed by the will, that share shall go as undisposed of. When lapsed share goes as undisposed of

Illustration

The testator bequeaths the residue of his estate to A, B and C, to be equally divided between them. A dies before the testator. His one third of the residue goes as undisposed of.

109. Where a bequest has been made to any child or other lineal descendant of the testator, and the legatee dies in the lifetime of the testator, but any lineal descendant of his survives the testator, the bequest shall not lapse, but shall take effect as if the death of the legatee had happened immediately after the death of the testator, unless a contrary intention appears by the will. When bequest to testator's child or lineal descendant does not lapse on his death in testator's lifetime

Illustration

A makes his will, by which he bequeaths a sum of money to his son, B, for his own absolute use and benefit. B dies before A, leaving a son, C, who survives A, and having made his will whereby he bequeaths all his property to his widow, D. The money goes to D.

110. Where a bequest is made to one person for the benefit of another, the legacy does not lapse by the death, in the testator's lifetime, of the person to whom the bequest is made. Bequest to A for benefit of B does not lapse by A's death

111. Where a bequest is made simply to a described class of persons, the thing bequeathed shall go only to such as are alive at the testator's death. Survivorship in case of bequest to described class

Exception.—If property is bequeathed to a class of persons described as standing in a particular degree of kindred to a specified individual, but their possession of it is deferred until a time later than the death of the testator by reason of a prior bequest or otherwise, the property shall at that time go to such of them as are then alive, and to the representatives of any of them who have died since the death of the testator.

Illustrations.

(*i*) A bequeaths 1,000 rupees to "the children of B" without saying when it is to be distributed among them. B had died previous to the date of the will, leaving three children, C, D and E. E died after the date of the will, but before the death of A. C and D survive A. The legacy will belong to C and D, to the exclusion of the representatives of E.

(*ii*) A lease for years of a house was bequeathed to A for his life, and after his decease to the children of B. At the death of the testator, B had two children living, C and D, and he never had any other child. Afterwards, during the life time of A, C died, leaving E, his executor. D has survived A. D and E are jointly entitled to so much of the lease-hold term as remains unexpired.

(*iii*) A sum of money was bequeathed to A for her life, and after her decease, to the children of B. At the death of the testator, B had two children living, C and D, and, after that event, two children, E and F, were born to B. C and E died in the lifetime of A, C having made a will, E having made no will. A has died, leaving D and F surviving her. The legacy is to be divided into four equal parts, one of which is to be paid to the executor of C, one to D, one to the administrator of E and one to F.

(*iv*) A bequeaths one-third of his lands to B for his life, and after his decease to the sisters of B. At the death of the testator, B had two sisters living, C and D, and after that event another sister E was born. C died during the life of B, D and E have survived B. One-third of A's lands belong to D, E and the representatives of C, in equal shares.

(*v*) A bequeaths 1,000 rupees to B for life and after his death equally among the children of C. Up to the death of B, C had not had any child. The bequest after the death of B is void.

(*vi*) A bequeaths 1,000 rupees to "all the children born or to be born" of B to be divided among them at the death of C. At the death of the testator, B has two children living, D and E. After the death of the testator, but in the lifetime of C, two other children, F and G, are born to B. After the death of C, another child is born to B. The legacy belongs to D, E, F and G, to the exclusion of the after-born child of B.

(*vii*) A bequeaths a fund to the children of B, to be divided among them when the eldest shall attain majority. At the testator's death, B had one child living, named C. He afterwards had two other children, named D and E. E died, but C and D were living when C attained majority. The fund belongs to C, D and the representatives of E, to the exclusion of any child who may be born to B after C's attaining majority.

CHAPTER VII.

Of void Bequests.

Bequest to person by particular description, who is not in existence at testator's death.

112. Where a bequest is made to a person by a particular description, and there is no person in existence at the testator's death who answers the description, the bequest is void.

Exception.—If property is bequeathed to a person described as standing in a particular degree of kindred to a specified individual, but his possession of it is deferred until a time later than the death of the testator, by reason of a prior bequest or otherwise; and if a person answering the description is alive at the death of the testator, or comes into existence between that event and such later time, the property shall, at such later time, go to that person, or, if he is dead, to his representatives.

Illustrations.

(*i*) A bequeaths 1,000 rupees to the eldest son of B. At the death of the testator, B has no son. The bequest is void.

(*ii*) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son. Afterwards, during the life of B, a son is born to C. Upon B's death the legacy goes to C's son.

(iii) A bequeaths 1,000 rupees to B for life, and after his death to the eldest son of C. At the death of the testator, C had no son. Afterwards, during the life of B, a son, named D, is born to C. D dies, then B dies. The legacy goes to the representative of D.

(iv) A bequeaths his estate of Green Acre to B for life, and at his decease, to the eldest son of C. Up to the death of B, C has had no son. The bequest to C's eldest son is void.

(v) A bequeaths 1,000 rupees to the eldest son of C, to be paid to him after the death of B. At the death of the testator C has no son, but a son is afterwards born to him during the life of B and is alive at B's death. C's son is entitled to the 1,000 rupees.

113. Where a bequest is made to a person not in existence at the time of the testator's death, subject to a prior bequest contained in the will, the later bequest shall be void, unless it comprises the whole of the remaining interest of the testator in the thing bequeathed. Bequest to person not in existence at testator's death subject to prior bequest.

Illustrations

(i) Property is bequeathed to A for his life, and after his death to his eldest son for life, and after the death of the latter to his eldest son. At the time of the testator's death, A has no son. Here the bequest to A's eldest son is a bequest to a person not in existence at the testator's death. It is not a bequest of the whole interest that remains to the testator. The bequest to A's eldest son for his life is void.

[illegible]

merely for her life; that is to say, a bequest to a person not in existence at the time of the testator's death of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund is void.

[illegible] the death of B the [illegible] bequest to persons not yet born, of a life interest in the fund, that is to say, of something which is less than the whole interest that remains to the testator in the thing bequeathed. The direction to settle the fund upon the daughters of B is void.

114. No bequest is valid whereby the vesting of the thing bequeathed may be delayed beyond the lifetime of one or more persons living at the testator's death and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing bequeathed is to belong. Rule against perpetuity.

Illustrations

[illegible] th to B for his life, and after [illegible] A and B survive the testator. [illegible] a son born after the death of [illegible] years have elapsed from the death of the longer liver of A and B, and the vesting of the fund may thus be delayed beyond the lifetime of A and B and the minority of the sons of B. The bequest after B's death is void.

(ii) A fund is bequeathed to A for his life, and after his death to B for his life, and after B's death to such of B's sons as shall first attain the age of 25. B dies in the lifetime of the testator, leaving one or more sons. In this case the sons of B are persons living at the time of the testator's decease, and the time when either of them will attain 25 necessarily falls within his own lifetime. The bequest is valid.

(*iii*) A fund is bequeathed to A for his life, and after his death to B for his life, with a direction that after B's death it shall be divided amongst such of B's children as shall attain the age of 18, but that, if no child of B shall attain that age, the fund shall go to C. Here the time for the division of the fund must arrive at the latest at the expiration of 18 years from the death of B, a person living at the testator's decease. All the bequests are valid.

(*iv*) A fund is bequeathed to trustees for the benefit of the testator's daughters, with a direction that, if any of them marry under age, her share of the fund shall be settled so as to devolve after her death upon such of her children as shall attain the age of 18. Any daughter of the testator to whom the direction applies must be in existence at his decease, and any portion of the fund which may eventually be settled as directed must vest not later than 18 years from the death of the daughters whose share it was. All these provisions are valid.

Bequest to a class some of whom may come under rules in sections 113 and 114.

115. If a bequest is made to a class of persons with regard to some of whom it is inoperative by reason of the provisions of section 113 or section 114, such bequest shall be [1][void in regard to those persons only and not in regard to the whole class].

Illustrations.

(*i*) A fund is bequeathed to A for life, and after his death to all his children who shall attain the age of 25. A survives the testator, and has some children living at the testator's death. Each child of A's living at the testator's death must attain the age of 25 (if at all) within the limits allowed for a bequest. But A may have children after the testator's decease, some of whom may not attain the age of 25 until more than 18 years have elapsed after the decease of A. The bequest to A's children, therefore, is inoperative as to any child born after the testator's death, [2][and in regard to those who do not attain the age of 25 within 18 years after A's death, but is operative in regard to the other children of A].

(*ii*) A fund is bequeathed to A for his life, and after his death to B, C, D and all other children of A who shall attain the age of 25. B, C, D are children of A living at the testator's decease. In all other respects the case is the same as that supposed in *illustration* (i). [2][Although the mention of B, C and D does not prevent the bequest from being regarded as a bequest to a class, it is not wholly void. It is operative as regards any of the children B, C or D, who attains the age of 25 within 18 years after A's death.]

Bequest to take effect on failure of prior bequest.

[3][**116.** Where by reason of any of the rules contained in sections 113 and 114, any bequest in favour of a person or of a class of persons is void in regard to such person or the whole of such class, any bequest contained in the same will and intended to take effect after or upon failure of such prior bequest is also void.]

Illustrations.

(*i*) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, for his life, and after the decease of such son to B. A and B survive the testator. The bequest to B is intended to take effect after the bequest to such of the sons of A as shall first attain the age of 25, which bequest is void under *section 114*. The bequest to B is void.

(*ii*) A fund is bequeathed to A for his life, and after his death to such of his sons as shall first attain the age of 25, and, if no son of A shall attain that age, to B. A and B survive the testator. The bequest to B is intended to take effect upon failure of the bequest to such of A's sons as shall first attain the age of 25, which bequest is void under section 114. The bequest to B is void.

Effect of direction for accumulation.

[4][**117.** (*1*) Where the terms of a will direct that the income arising from any property shall be accumulated either wholly or in part during any period

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[1] Subs. by the Transfer of Property (Amendment) Supplementary Act, 1929 (21 of 1929), s. 14, for "wholly void".

[2] Subs. by s. 14, *ibid.*, for the original words.

[3] Subs. by s. 14, *ibid.*, for the original section.

[4] Subs. by s. 14, *ibid.*, for the original section and the illustrations thereto.

longer than a period of eighteen years from the death of the testator, such direction shall, save as hereinafter provided, be void to the extent to which the period during which the accumulation is directed exceeds the aforesaid period, and at the end of such period of eighteen years the property and the income thereof shall be disposed of as if the period during which the accumulation has been directed to be made had elapsed.

(2) This section shall not affect any direction for accumulation for the purpose of—

(i) the payment of the debts of the testator or any other person taking any interest under the will, or

(ii) the provision of portions for children or remoter issue of the testator or of any other person taking any interest under the will, or

(iii) the preservation or maintenance of any property bequeathed;

and such direction may be made accordingly.]

118. No man having a nephew or niece or any nearer relative shall have power to bequeath any property to religious or charitable uses, except by a will executed not less than twelve months before his death, and deposited within six months from its execution in some place provided by law for the safe custody of the wills of living persons. Bequest to religious or charitable uses.

Illustrations.

A having a nephew makes a bequest by a will not executed and deposited as required—
for the relief of poor people;
for the maintenance of sick soldiers;
for the erection or support of a hospital;
for the education and preferment of orphans;
for the support of scholars;
for the erection or support of a school;
for the building and repairs of a bridge;
for the making of roads;
for the erection or support of a church;
for the repairs of a church;
for the benefit of ministers of religion;
for the formation or support of a public garden;
All these bequests are void.

CHAPTER VIII.

OF THE VESTING OF LEGACIES.

119. Where by the terms of a bequest the legatee is not entitled to immediate possession of the thing bequeathed, a right to receive it at the proper time shall, unless a contrary intention appears by the will, become vested in the legatee on the testator's death, and shall pass to the legatee's representatives if he dies before that time and without having received the legacy, and in such cases the legacy is from the testator's death said to be vested in interest. Date of vesting of legacy when payment or possession postponed.

Explanation.—An intention that a legacy to any person shall not become vested in interest in him is not to be inferred merely from a provision whereby the payment or possession of the thing bequeathed is postponed, or whereby a prior interest therein is bequeathed to some other person, or whereby the income arising from the fund bequeathed is directed to be accumulated until the time of payment arrives, or from a provision that, if a particular event shall happen, the legacy shall go over to another person.

Illustrations.

(*i*) A bequeaths to B 100 rupees, to be paid to him at the death of C. On A's death the legacy becomes vested in interest in B, and if he dies before C, his representatives are entitled to the legacy.

(*ii*) A bequeaths to B 100 rupees, to be paid to him upon his attaining the age of 18. On A's death the legacy becomes vested in interest in B.

(*iii*) A fund is bequeathed to A for life, and after his death to B. On the testator's death the legacy to B becomes vested in interest in B.

(*iv*) A fund is bequeathed to A until B attains the age of 18 and then to B. The legacy to B is vested in interest from the testator's death.

(*v*) A bequeaths the whole of his property to B upon trust to pay certain debts out of the income, and then to make over the fund to C. At A's death the gift to C becomes vested in interest in him.

(*vi*) A fund is bequeathed to A, B and C in equal shares to be paid to them on their attaining the age of 18, respectively, with a proviso that, if all of them die under the age of 18, the legacy shall devolve upon D. On the death of the testator, the shares vested in interest in A, B and C, subject to be divested in case A, B and C shall all die under 18, and, upon the death of any of them (except the last survivor) under the age of 18, his vested interest passes, so subject, to his representatives.

Date of vesting when legacy contingent upon specified uncertain event.

120. (*1*) A legacy bequeathed in case a specified uncertain event shall happen does not vest until that event happens.

(*2*) A legacy bequeathed in case a specified uncertain event shall not happen does not vest until the happening of that event becomes impossible.

(*3*) In either case, until the condition has been fulfilled, the interest of the legatee is called contingent.

Exception.—Where a fund is bequeathed to any person upon his attaining a particular age, and the will also gives to him absolutely the income to arise from the fund before he reaches that age, or directs the income, or so much of it as may be necessary, to be applied for his benefit, the bequest of the fund is not contingent.

Illustrations.

(*i*) A legacy is bequeathed to D in case A, B and C shall all die under the age of 18. D has a contingent interest in the legacy until A, B and C all die under 18, or one of them attains that age.

(*ii*) A sum of money is bequeathed to A " in case he shall attain the age of 18 ", or " when he shall attain the age of 18 ". A's interest in the legacy is contingent until the condition is fulfilled by his attaining that age.

(*iii*) An estate is bequeathed to A for life, and after his death to B if B shall then be living; but if B shall not be then living to C. A, B and C survive the testator. B and C each take a contingent interest in the estate until the event which is to vest it in one or in the other has happened.

(*iv*) An estate is bequeathed as in the case last supposed. B dies in the lifetime of A and C. Upon the death of B, C acquires a vested right to obtain possession of the estate upon A's death.

(v) A legacy is bequeathed to A when she shall attain the age of 18, or shall marry under [illegible] e neither attains 18 nor marries under [illegible] A and C each take a contingent interest [illegible] olutely entitled to the legacy although [illegible]

(vi) An estate is bequeathed to A until he shall marry and after that event to B. B's interest in the bequest is contingent until the condition is fulfilled by A's marrying

(vii) An estate is bequeathed to A until he shall take advantage of any law for the relief of insolvent debtors, and after that event to B B's interest in the bequest is contingent until A takes advantage of such a law.

(viii) An estate is bequeathed to A if he shall pay 500 rupees to B. A's interest in the bequest is contingent until he has paid 500 rupees to B

(ix) A leaves his farm of Sultanpur Khurd to B, if B shall convey his own farm of Sultanpur Buzurg to C B's interest in the bequest is contingent until he has conveyed the latter farm to C.

(x) A fund is bequeathed to A if B shall not marry C within five years after the testator's death A's interest in the legacy is contingent until the condition is fulfilled by the expiration of the five years without B's having married C, or by the occurrence within that period of an event which makes the fulfilment of the condition impossible

(xi) A fund is bequeathed to A if B shall not make any provision for him by will The legacy is contingent until B's death

(xii) A bequeaths to B 500 rupees a year upon his attaining the age of 18, and directs that the interest, or a competent part thereof, shall be applied for his benefit until he reaches that age The legacy is vested.

(xiii) A bequeaths to B 500 rupees when he shall attain the age of 18, and directs that a certain sum, out of another fund, shall be applied for his maintenance until he arrives at that age. The legacy is contingent

121. Where a bequest is made only to such members of a class as shall have attained a particular age, a person who has not attained that age cannot have a vested interest in the legacy

Vesting of interest in bequest to such members of a class as shall have attained particular age.

Illustration

[illegible] a direc- tion [illegible] which it ma[illegible] educa- tion. [illegible]

CHAPTER IX.

Of Onerous Bequests.

122. Where a bequest imposes an obligation on the legatee, he can take nothing by it unless he accepts it fully.

Onerous bequests.

Illustration

A, having shares in (X), a prosperous joint stock company and also shares in (Y), a joint stock company in difficulties, in respect of which shares heavy calls are expected to be made, bequeaths to B all his shares in joint stock companies, B refuses to accept the shares in (Y) He forfeits the shares in (X)

123. Where a will contains two separate and independent bequests to the same person, the legatee is at liberty to accept one of them and refuse the other, although the former may be beneficial and the latter onerous.

One of two separate and independent bequests to same person may be accepted

Illustration.

and other refused.

A, having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is higher than the house can be let for, bequeaths to B the lease and a sum of money. B refuses to accept the lease. He will not by this refusal forfeit the money.

CHAPTER X.

OF CONTINGENT BEQUESTS.

Bequest contingent upon specified uncertain event, no time being mentioned for its occurrence.

124. Where a legacy is given if a specified uncertain event shall happen and no time is mentioned in the will for the occurrence of that event, the legacy cannot take effect, unless such event happens before the period when the fund bequeathed is payable or distributable.

Illustrations.

(*i*) A legacy is bequeathed to A, and, in case of his death, to B. If A survives the testator, the legacy to B does not take effect.

(*ii*) A legacy is bequeathed to A, and, in case of his death without children, to B. If A survives the testator or dies in his lifetime leaving a child, the legacy to B does not take effect.

(*iii*) A legacy is bequeathed to A when and if he attains the age of 18, and, in case of his death, to B. A attains the age of 18. The legacy to B does not take effect.

(*iv*) A legacy is bequeathed to A for life, and, after his death to B, and, "in case of B's death without children," to C. The words "in case of B's death without children" are to be understood as meaning "in case B dies without children during the lifetime of A".

(*v*) A legacy is bequeathed to A for life, and, after his death to B, and, "in case of B's death," to C. The words "in case of B's death" are to be considered as meaning "in case B dies in the lifetime of A".

Bequest to such of certain persons as shall be surviving at some period not specified.

125. Where a bequest is made to such of certain persons as shall be surviving at some period, but the exact period is not specified, the legacy shall go to such of them as are alive at the time of payment or distribution, unless a contrary intention appears by the will.

Illustrations.

(*i*) Property is bequeathed to A and B to be equally divided between them, or to the survivor of them. If both A and B survive the testator, the legacy is equally divided between them. If A dies before the testator, and B survives the testator, it goes to B.

(*ii*) Property is bequeathed to A for life, and, after his death, to B and C, to be equally divided between them, or to the survivor of them. B dies during the life of A; C survives A. At A's death the legacy goes to C.

(*iii*) Property is bequeathed to A for life, and after his death to B and C, or the survivor, with a direction that, if B should not survive the testator, his children are to stand in his place. C dies during the life of the testator; B survives the testator, but dies in the lifetime of A. The legacy goes to the representative of B.

(*iv*) Property is bequeathed to A for life, and, after his death, to B and C, with a direction that, in case either of them dies in the lifetime of A, the whole shall go to the survivor. B dies in the lifetime of A. Afterwards C dies in the lifetime of A. The legacy goes to the representative of C.

CHAPTER XI.

OF CONDITIONAL BEQUESTS

126 A bequest upon an impossible condition is void. Bequest upon impossible condition

Illustrations

(i) An estate is bequeathed to A on condition that he shall walk 100 miles in an hour The bequest is void

(ii) A bequeaths 500 rupees to B on condition that he shall marry A's daughter A s daughter was dead at the date of the will The bequest is void

127. A bequest upon a condition, the fulfilment of which would be contrary to law or to morality, is void Bequest upon illegal or immoral condition.

Illustrations

(i) A bequeaths 500 rupees to B on condition that he shall murder C The bequest is void

(ii) A bequeaths 5 000 rupees to his niece if she will desert her husband The bequest is void

128. Where a will imposes a condition to be fulfilled before the legatee can take a vested interest in the thing bequeathed, the condition shall be considered to have been fulfilled if it has been substantially complied with Fulfilment of condition precedent to vesting of legacy

Illustrations

(i) A le [illegible]
D and F [illegible]
present to A [illegible]
and has ma [illegible]

(ii) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D D dies A marries with the consent of B and C A has fulfilled the condition

(iii) A legacy is bequeathed to A on condition that he shall marry with the consent of B C and D A marries in the lifetime of B C and D with the consent of B and C only A has not fulfilled the condition

(iv) A legacy is bequeathed to A on condition that he shall marry with the consent of B C and D A obtains the unconditional assent of B C and D to his marriage with E Afterwards B C and D capriciously retract their consent A marries E A has fulfilled the condition

(v) A legacy is bequeathed to A on condition that he shall marry with the consent of B, C and D A marries without the consent of B C and D but obtains their consent after the marriage A has not fulfilled the condition

(vi) A makes his will whereby he bequeaths a sum of money to B if B shall marry with the consent of A s executors B marries during the lifetime of A and A afterwards expresses his approbation of the marriage A dies The bequest to B takes effect

(vii) A legacy is bequeathed to A if he executes a certain document within a time specified in the will The document is executed by A within a reasonable time but not within the time specified in the will A has not performed the condition and is not entitled to receive the legacy

129 Where there is a bequest to one person and a bequest of the same thing to another, if the prior bequest shall fail, the second bequest shall take effect upon the failure of the prior bequest although the failure may not have occurred in the manner contemplated by the testator Bequest to A and on failure of prior bequest to B

Illustrations

(i) A bequeaths a sum of money to his own children surviving him and, if they all die under 18 to B A dies without having ever had a child The bequest to B takes effect.

(ii) A bequeaths a sum of money to B on condition that he shall execute a certain document within three months after A s death, and if he should neglect to do so, to C. B dies in the testator s lifetime The bequest to C takes effect

When second bequest not to take effect on failure of first.

130. Where the will shows an intention that the second bequest shall take effect only in the event of the first bequest failing in a particular manner, the second bequest shall not take effect, unless the prior bequest fails in that particular manner.

Illustration.

A makes a bequest to his wife, but in case she should die in his lifetime, bequeaths to B that which he had bequeathed to her. A and his wife perish together, under circumstances which make it impossible to prove that she died before him ; the bequest to B does not take effect.

Bequest over, conditional upon happening or not happening of specified uncertain event.

131. (*1*) A bequest may be made to any person with the condition superadded that, in case a specified uncertain event shall happen, the thing bequeathed shall go to another person, or that in case a specified uncertain vent shall not happen, the thing bequeathed shall go over to another person.

(*2*) In each case the ulterior bequest is subject to the rules contained in sections 120, 121, 122, 123, 124, 125, 126, 127, 129 and 130.

Illustrations.

(*i*) A sum of money is bequeathed to A, to be paid to him at the age of 18, and if he shall die before he attains that age, to B. A takes a vested interest in the legacy, subject to be divested and to go to B in case A dies under 18.

(*ii*) An estate is bequeathed to A with a proviso that if A shall dispute the competency of the testator to make a will, the estate shall go to B. A disputes the competency of the testator to make a will. The estate goes to B.

(*iii*) A sum of money is bequeathed to A for life, and, after his death, to B ; but if B shall then be dead, leaving a son, such son is to stand in the place of B. B takes a vested interest in the legacy, subject to be divested if he dies leaving a son in A's lifetime.

(*iv*) A sum of money is bequeathed to A and B, and if either should die during the life of C, then to the survivor living at the death of C. A and B die before C. The gift over cannot take effect, but the representative of A takes one-half of the money, and the representative of B takes the other half.

(*v*) A bequeaths to B the interest of a fund for life, and directs the fund to be divided at her death equally among her three children, or such of them as shall be living at her death. All the children of B die in B's lifetime. The bequest over cannot take effect, but the interests of the children pass to their representatives.

Condition must be strictly fulfilled.

132. An ulterior bequest of the kind contemplated by section 131 cannot take effect, unless the condition is strictly fulfilled.

Illustrations.

(*i*) A legacy is bequeathed to A, with a proviso that, if he marries without the consent of B, C and D, the legacy shall go to E. D dies. Even if A marries without the consent of B and C, the gift to E does not take effect.

(*ii*) A legacy is bequeathed to A, with a proviso that, if he marries without the consent of B, the legacy shall go to C. A marries with the consent of B. He afterwards becomes a widower and marries again without the consent of B. The bequest to C does not take effect.

(*iii*) A legacy is bequeathed to A, to be paid at 18, or marriage, with a proviso that, if A dies under 18 or marries without the consent of B, the legacy shall go to C. A marries under 18, without the consent of B. The bequest to C takes effect.

Original bequest not affected by invalidity of second.

133. If the ulterior bequest be not valid the original bequest is not affected by it.

Illustrations.

(*i*) An estate is bequeathed to A for his life with condition superadded that, if he shall not on a given day walk 100 miles in an hour, the estate shall go to B. The condition being void, A retains his estate as if no condition had been inserted in the will.

(ii) An estate is bequeathed to A for her life and, if she do not desert her husband, to D. A is entitled to the estate during her life as if no condition had been inserted in the will

(iii) An estate is bequeathed to A for life, and, if he marries, to the eldest son of B for life B, at the date of the testator's death, had not had a son The bequest over is void under section 105, and A is entitled to the estate during his life

134. A bequest may be made with the condition superadded that it shall cease to have effect in case a specified uncertain event shall happen, or in case a specified uncertain event shall not happen

Bequest conditioned that it shall cease to have effect in case a specified uncertain event shall happen, or not happen.

Illustrations

(i) An estate is bequeathed to A for his life, with a proviso that, in case he shall cut down a certain wood the bequest shall cease to have any effect A cuts down the wood He loses his life interest in the estate

(ii) An estate is bequeathed to A, provided that, if he marries under the age of 25 without the consent of the executors named in the will, the estate shall cease to belong to him A marries under 25 without the consent of the executors The estate ceases to belong to him

(iii) An estate is bequeathed to A, provided that, if he shall not go to England within three years after the testator's death, his interest in the estate shall cease A does not go to England within the time prescribed His interest in the estate ceases

(iv) An estate is bequeathed to A, with a proviso that, if she becomes a nun, she shall cease to have any interest in the estate A becomes a nun She loses her interest under the will

(v) A fund is bequeathed to A for life, and, after his death, to B, if B shall be then living, with a proviso that, if B shall become a nun, the bequest to her shall cease to have any effect B becomes a nun in the life time of A She thereby loses her contingent interest in the fund

135. In order that a condition that a bequest shall cease to have effect may be valid, it is necessary that the event to which it relates be one which could legally constitute the condition of a bequest as contemplated by section 120

Such condition must not be invalid under section 120

136. Where a bequest is made with a condition superadded that, unless the legatee shall perform a certain act, the subject matter of the bequest shall go to another person, or the bequest shall cease to have effect but no time is specified for the performance of the act, if the legatee takes any step which renders impossible or indefinitely postpones the performance of the act required, the legacy shall go as if the legatee had died without performing such act

Result of legatee rendering impossible or indefinitely postponing act for which no time specified, and on non performance of which subject matter to go over

Illustrations

(i) A bequest is made to A, with a proviso that, unless he enters the Army, the legacy shall go over to B A takes Holy Orders, and thereby renders it impossible that he should fulfil the condition. B is entitled to receive the legacy

(ii) A bequest is made to A, with a proviso that it shall cease to have any effect if he does not marry B's daughter A marries a stranger and thereby indefinitely postpones the fulfilment of the conditions The bequest ceases to have effect

137. Where the will requires an act to be performed by the legatee within a specified time, either as a condition to be fulfilled before the legacy is enjoyed, or as a condition upon the non fulfilment of which the subject matter of the bequest is to go over to another person or the bequest is to cease to have effect, the act must be performed within the time specified, unless the performance of it be prevented by fraud, in which case such further time shall be allowed as shall be requisite to make up for the delay caused by such fraud

Performance of condition precedent or subsequent, within specified time Further time in case of fraud

(Part VI.—Testamentary Succession. Chapter XII.—Of Bequests with Directions as to Application or Enjoyment. Chapter XIII.—Of Bequests to an Executor.)

CHAPTER XII.

Of Bequests with Directions as to Application or Enjoyment.

Direction that fund be employed in particular manner following absolute bequest of same to or for benefit of any person.

138. Where a fund is bequeathed absolutely to or for the benefit of any person, but the will contains a direction that it shall be applied or enjoyed in a particular manner, the legatee shall be entitled to receive the fund as if the will had contained no such direction.

Illustration.

A sum of money is bequeathed towards purchasing a country residence for A, or to purchase an annuity for A, or to place A in any business. A chooses to receive the legacy in money. He is entitled to do so.

Direction that mode of enjoyment of absolute bequest is to be restricted, to secure specified benefit for legatee.

139. Where a testator absolutely bequeaths a fund, so as to sever it from his own estate, but directs that the mode of enjoyment of it by the legatee shall be restricted so as to secure a specified benefit for the legatee; if that benefit cannot be obtained for the legatee, the fund belongs to him as if the will had contained no such direction.

Illustrations.

(*i*) A bequeaths the residue of his property to be divided equally among his daughters, and directs that the shares of the daughters shall be settled upon themselves respectively for life and be paid to their children after their death. All the daughters die unmarried. The representatives of each daughter are entitled to her share of the residue.

(*ii*) A directs his trustees to raise a sum of money for his daughter, and he then directs that they shall invest the fund and pay the income arising from it to her during her life, and divide the principal among her children after her death. The daughter dies without having ever had a child. Her representatives are entitled to the fund.

Bequest of fund for certain purposes, some of which cannot be fulfilled.

140. Where a testator does not absolutely bequeath a fund, so as to sever it from his own estate, but gives it for certain purposes, and part of those purposes cannot be fulfilled, the fund, or so much of it as has not been exhausted upon the objects contemplated by the will, remains a part of the estate of the testator.

Illustrations.

(*i*) A directs that his trustees shall invest a sum of money in a particular way, and shall pay the interest to his son for life, and at his death shall divide the principal among his children. The son dies without having ever had a child. The fund, after the son's death, belongs to the estate of the testator.

(*ii*) A bequeaths the residue of his estate, to be divided equally among his daughters, with a direction that they are to have the interest only during their lives, and that at their decease the fund shall go to their children. The daughters have no children. The fund belongs to the estate of the testator.

CHAPTER XIII.

Of Bequests to an Executor.

Legatee named as executor cannot take unless he shows intention to act as executor.

141. If a legacy is bequeathed to a person who is named an executor of the will, he shall not take the legacy, unless he proves the will or otherwise manifests an intention to act as executor.

Illustration

A legacy is given to A, who is named an executor. A orders the funeral according to the directions contained in the will, and dies a few days after the testator, without having proved the will. A has manifested an intention to act as executor.

CHAPTER XIV

OF SPECIFIC LEGACIES

142. Where a testator bequeaths to any person a specified part of his property, which is distinguished from all other parts of his property, the legacy is said to be specific. Specific legacy defined.

Illustrations

(i) A bequeaths to B—

"the diamond ring presented to me by C":

"my gold chain":

"a certain bale of wool":

"a certain piece of cloth":

"all my household goods which shall be in or about my dwelling house in M. Street, in Calcutta, at time of my death":

"the sum of 1,000 rupees in a certain chest":

"the debt which B owes me":

"all my bills, bonds and securities belonging to me lying in my lodgings in Calcutta":

"all my furniture in my house in Calcutta":

"all my goods on board a certain ship now lying in the river Hughli":

"2,000 rupees which I have in the hands of C":

"the money due to me on the bond of D":

"my mortgage on the Rampur factory":

"one half of the money owing to me on my mortgage of Rampur factory":

"1,000 rupees, being part of a debt due to me from C":

"my capital stock of 1,000*l* in East India Stock":

"my promissory notes of the [1][Central Government] for 10,000 rupees in their 4 per cent. loan":

"all such sums of money as my executors may, after my death, receive in respect of the debt due to me from the insolvent firm of D and Company":

"all the wine which I may have in my cellar at the time of my death":

"such of my horses as B may select":

"all my shares in the Imperial Bank of India":

"all my shares in the Imperial Bank of India which I may possess at the time of my death":

"all the money which I have in the 5½ per cent. loan of the [1][Central Government]":

"all the Government securities I shall be entitled to at the time of my decease".

Each of these legacies is specific.

(ii) A, having Government promissory notes for 10,000 rupees, bequeaths to his executors "Government promissory notes for 10,000 rupees in trust to sell" for the benefit of B. The legacy is specific.

(iii) A having property at Benares, and also in other places, bequeaths to B all his property at Benares. The legacy is specific.

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[1] Subs. by the A. O. for "G. of I."

(iv) A bequeaths to B—

his house in Calcutta:

his zamindari of Rampur:

his taluq of Ramnagar:

his lease of the indigo-factory of Salkya:

an annuity of 500 rupees out of the rents of his zamindari of W.

A directs his zamindari of X to be sold, and the proceeds to be invested for the benefit of B.

Each of these bequests is specific.

(v) A by his will charges his zamindari of Y with an annuity of 1,000 rupees to C during his life, and subject to this charge he bequeaths the zamindari to D. Each of these bequests is specific.

(vi) A bequeaths a sum of money—

to buy a house in Calcutta for B:

to buy an estate in zila Faridpur for B:

to buy a diamond ring for B:

to buy a horse for B:

to be invested in shares in the Imperial Bank of India for B:

to be invested in Government securities for B.

A bequeaths to B—

"a diamond ring":

"a horse":

"10,000 rupees worth of Government securities":

"an annuity of 500 rupees":

"2,000 rupees to be paid in cash":

"so much money as will produce 5,000 rupees four per cent. Government securities".

These bequests are not specific.

(vii) A, having property in England and property in India, bequeaths a legacy to B, and directs that it shall be paid out of the property which he may leave in India. He also bequeaths a legacy to C, and directs that it shall be paid out of property which he may leave in England. No one of these legacies is specific.

Bequest of certain sum where stocks, etc., in which invested are described.

143. Where a certain sum is bequeathed, the legacy is not specific merely because the stock, funds or securities in which it is invested are described in the will.

Illustrations.

A bequeaths to B—

"10,000 rupees of my funded property":

"10,000 rupees of my property now invested in shares of the East Indian Railway Company":

"10,000 rupees, at present secured by mortage of Rampur factory".

No one of these legacies is specific.

Bequest of stock where testator had, at date of will, equal or greater amount of stock of same kind.

144. Where a bequest is made in general terms of a certain amount of any kind of stock, the legacy is not specific merely because the testator was, at the date of his will, possessed of stock of the specified kind, to an equal or greater amount than the amount bequeathed.

Illustration.

A bequeaths to B 5,000 rupees five per cent. Government securities. A had at the date of the will five per cent. Government securities for 5,000 rupees. The legacy is not specific.

(*Part VI —Testamentary Succession Chapter XIV —Of Specific Legacies Chapter XV —Of Demonstrative Legacies*)

145 A money legacy is not specific merely because the will directs its payment to be postponed until some part of the property of the testator has been reduced to a certain form or remitted to a certain place

Bequest of money where not payable until part of testator's property disposed of in certain way

Illustration

A bequeaths to B 10 000 rupees and directs that this legacy shall be paid as soon as A's property in India shall be realised in England The legacy is not specific

146 Where a will contains a bequest of the residue of the testator's property along with an enumeration of some items of property not previously bequeathed the articles enumerated shall not be deemed to be specifically bequeathed

When enumerated articles not deemed specifically bequeathed

147 Where property is specifically bequeathed to two or more persons in succession, it shall be retained in the form in which the testator left it although it may be of such a nature that its value is continually decreasing

Retention in form of specific bequest to several persons in succession

Illustrations

(i) A having lease of a house for a term of years fifteen of which were unexpired at the time of his death has bequeathed the lease to B for his life and after B's death to C B is to enjoy the property as A left it although if B lives for fifteen years C can take nothing under the bequest

(ii) A having an annuity during the life of B bequeaths it to C for his life and after C's death to D C is to enjoy the annuity as A left it although if B dies before D D can take nothing under the bequest

148 Where property comprised in a bequest to two or more persons in succession is not specifically bequeathed it shall in the absence of any direction to the contrary be sold, and the proceeds of the sale shall be invested in such securities as the High Court may by any general rule authorise or direct, and the fund thus constituted shall be enjoyed by the successive legatees according to the terms of the will

Sale and investment of proceeds of property bequeathed to two or more persons in succession.

Illustration

A, having a lease for a term of years bequeaths all his property to B for life and after B's death to C The lease must be sold the proceeds invested as stated in this section and the annual income arising from the fund is to be paid to B for life At B's death the capital of the fund is to be paid to C

149 If there is a deficiency of assets to pay legacies, a specific legacy is not liable to abate with the general legacies

Where deficiency of assets to pay legacies specific legacy not to abate with general legacies

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CHAPTER XV

Of Demonstrative Legacies

150 Where a testator bequeaths a certain sum of money, or a certain quantity of any other commodity, and refers to a particular fund or stock so as to constitute the same the primary fund or stock out of which payment is to be made, the legacy is said to be demonstrative

Demonstrative legacy defined

Explanation.—The distinction between a specific legacy and a demonstrative legacy consists in this, that—

where specified property is given to the legatee, the legacy is specific;

where the legacy is directed to be paid out of specified property, it is demonstrative.

Illustrations.

(*i*) A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The legacy to B is specific, the legacy to C is demonstrative.

(*ii*) A bequeaths to B—

"ten bushels of the corn which shall grow in my field of Green Acre":

"80 chests of the indigo which shall be made at my factory of Rampur":

"10,000 rupees out of my five per cent. promissory notes of the [1][Central Government]":

an annuity of 500 rupees "from my funded property":

"1,000 rupees out of the sum of 2,000 rupees due to me by C":

an annuity, and directs it to be paid "out of the rents arising from my taluk of Ramnagar".

(*iii*) A bequeaths to B—

"10,000 rupees out of my estate at Ramnagar", or charges it on his estate at Ramnagar:

"10,000 rupees, being my share of the capital embarked in a certain business".

Each of these bequests is demonstrative.

Order of payment when legacy directed to be paid out of fund the subject of specific legacy.

151. Where a portion of a fund is specifically bequeathed and a legacy is directed to be paid out of the same fund, the portion specifically bequeathed shall first be paid to the legatee, and the demonstrative legacy shall be paid out of the residue of the fund and, so far as the residue shall be deficient, out of the general assets of the testator.

Illustration.

A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The debt due to A from W is only 1,500 rupees; of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

CHAPTER XVI.

OF ADEMPTION OF LEGACIES.

Ademption explained.

152. If anything which has been specifically bequeathed does not belong to the testator at the time of his death, or has been converted into property of a different kind, the legacy is adeemed: that is, it cannot take effect, by reason of the subject-matter having been withdrawn from the operation of the will.

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[1] Subs. by the A. O. for "G. of I."

Illustrations.

(i) A bequeaths to B—

"the diamond ring presented to me by C":

"my gold chain":

"a certain bale of wool":

"a certain piece of cloth":

"all my household goods which shall be in or about my dwelling house in M. Street in Calcutta, at the time of my death";

in his life time,—

sells or gives away the ring:

converts the chain into a cup:

converts the wool into cloth:

makes the cloth into a garment:

takes another house into which he removes all his goods.

Each of these legacies is adeemed.

(ii) A bequeaths to B—

"the sum of 1,000 rupees in a certain chest".

"all the horses in my stable".

At the death of A, no money is found in the chest, and no horses in the stable. The legacies are adeemed.

(iii) A bequeaths to B certain bales of goods. A takes the goods with him on a voyage. The ship and goods are lost at sea, and A is drowned. The legacy is adeemed.

153. A demonstrative legacy is not adeemed by reason that the property on which it is charged by the will does not exist at the time of the death of the testator, or has been converted into property of a different kind, but it shall in such case be paid out of the general assets of the testator.

Non ademption of demonstrative legacy.

154. Where the thing specifically bequeathed is the right to receive something of value from a third party, and the testator himself receives it, the bequest is adeemed.

Ademption of specific bequest of right to receive something from third party.

Illustrations.

(i) A bequeaths to B—

"the debt which C owes me":

"2,000 rupees which I have in the hands of D":

"the money due to me on the bond of E":

"my mortgage on the Rampur factory".

All these debts are extinguished in A's lifetime, some with and some without his consent. All the legacies are adeemed.

(ii) A bequeaths to B his interest in certain policies of life assurance. A in his lifetime receives the amount of the policies. The legacy is adeemed.

155. The receipt by the testator of a part of an entire thing specifically bequeathed shall operate as an ademption of the legacy to the extent of the sum so received.

Ademption *pro tanto* by testator's receipt of part of entire thing specifically bequeathed.

Illustrations.

A bequeaths to B "the debt due to me by C". The debt amounts to 10,000 rupees. C pays to A 5,000 rupees the one-half of the debt. The legacy is revoked by ademption, so far as regards the 5,000 rupees received by A.

Explanation.—The distinction between a specific legacy and a demonstrative legacy consists in this, that—

where specified property is given to the legatee, the legacy is specific;
where the legacy is directed to be paid out of specified property, it is demonstrative.

Illustrations.

(*i*) A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The legacy to B is specific, the legacy to C is demonstrative.

(*ii*) A bequeaths to B—

"ten bushels of the corn which shall grow in my field of Green Acre":

"80 chests of the indigo which shall be made at my factory of Rampur":

"10,000 rupees out of my five per cent. promissory notes of the [1][Central Government]":

an annuity of 500 rupees "from my funded property":

"1,000 rupees out of the sum of 2,000 rupees due to me by C":

an annuity, and directs it to be paid "out of the rents arising from my taluk of Ramnagar".

(*iii*) A bequeaths to B—

"10,000 rupees out of my estate at Ramnagar", or charges it on his estate at Ramnagar:

"10,000 rupees, being my share of the capital embarked in a certain business".

Each of these bequests is demonstrative.

Order of payment when legacy directed to be paid out of fund the subject of specific legacy.

151. Where a portion of a fund is specifically bequeathed and a legacy is directed to be paid out of the same fund, the portion specifically bequeathed shall first be paid to the legatee, and the demonstrative legacy shall be paid out of the residue of the fund and, so far as the residue shall be deficient, out of the general assets of the testator.

Illustration.

A bequeaths to B 1,000 rupees, being part of a debt due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. The debt due to A from W is only 1,500 rupees; of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

CHAPTER XVI.

OF ADEMPTION OF LEGACIES.

Ademption explained.

152. If anything which has been specifically bequeathed does not belong to the testator at the time of his death, or has been converted into property of a different kind, the legacy is adeemed: that is, it cannot take effect, by reason of the subject-matter having been withdrawn from the operation of the will.

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[1] Subs. by the A. O. for "G. of I."

Illustrations.

(i) A bequeaths to B—

"the diamond ring presented to me by C":

"my gold chain":

"a certain bale of wool":

"a certain piece of cloth":

"all my household goods which shall be in or about my dwelling house in M. Street in Calcutta, at the time of my death",

in his life time,—

sells or gives away the ring:

converts the chain into a cup

converts the wool into cloth:

makes the cloth into a garment:

takes another house into which he removes all his goods

Each of these legacies is adeemed.

(ii) A bequeaths to B—

"the sum of 1,000 rupees in a certain chest"

"all the horses in my stable".

At the death of A, no money is found in the chest, and no horses in the stable. The legacies are adeemed

(iii) A bequeaths to B certain bales of goods A takes the goods with him on a voyage. The ship and goods are lost at sea, and A is drowned The legacy is ademeed.

Non ademption of demonstrative legacy.

153. A demonstrative legacy is not adeemed by reason that the property on which it is charged by the will does not exist at the time of the death of the testator, or has been converted into property of a different kind, but it shall in such case be paid out of the general assets of the testator.

Ademption of specific bequest of right to receive something from third party.

154. Where the thing specifically bequeathed is the right to receive something of value from a third party, and the testator himself receives it, the bequest is adeemed.

Illustrations

(i) A bequeaths to B—

"the debt which C owes me"

"2,000 rupees which I have in the hands of D":

"the money due to me on the bond of E":

"my mortgage on the Rampur factory".

All these debts are extinguished in A's lifetime, some with and some without his consent. All the legacies are adeemed

(ii) A bequeaths to B his interest in certain policies of life assurance A in his lifetime receives the amount of the policies The legacy is adeemed

Ademption *pro tanto* by testator's receipt of part of entire thing specifically bequeathed.

155. The receipt by the testator of a part of an entire thing specifically bequeathed shall operate as an ademption of the legacy to the extent of the sum so received.

Illustrations

A bequeaths to B "the debt due to me by C". The debt amounts to 10,000 rupees C pays to A 5 000 rupees the one half of the debt. The legacy is revoked by ademption, so far as regards the 5,000 rupees received by A.

(*Part VI.—Testamentary Succession. Chapter XVI.—Of Ademption of Legacies.*)

Ademption *pro tanto* by testator's receipt of portion of entire fund of which portion has been specifically bequeathed.

156. If a portion of an entire fund or stock is specifically bequeathed, the receipt by the testator of a portion of the fund or stock shall operate as an ademption only to the extent of the amount so received; and the residue of the fund or stock shall be applicable to the discharge of the specific legacy.

Illustration.

A bequeaths to B one-half of the sum of 10,000 rupees due to him from W. A in his lifetime receives 6,000 rupees, part of the 10,000 rupees. The 4,000 rupees which are due from W to A at the time of his death belong to B under the specific bequest.

Order of payment where portion of fund specifically bequeathed to one legatee, and legacy charged on same fund to another, and, testator having received portion of that fund, remainder insufficient to pay both legacies.

157. Where a portion of a fund is specifically bequeathed to one legatee, and a legacy charged on the same fund is bequeathed to another legatee, then, if the testator receives a portion of that fund, and the remainder of the fund is insufficient to pay both the specific and the demonstrative legacy, the specific legacy shall be paid first, and the residue (if any) of the fund shall be applied so far as it will extend in payment of the demonstrative legacy, and the rest of the demonstrative legacy shall be paid out of the general assets of the testator.

Illustration.

A bequeaths to B 1,000 rupees, part of the debt of 2,000 rupees due to him from W. He also bequeaths to C 1,000 rupees to be paid out of the debt due to him from W. A afterwards receives [1][500] rupees, part of that debt, and dies leaving only 1,500 rupees due to him from W. Of these 1,500 rupees, 1,000 rupees belong to B, and 500 rupees are to be paid to C. C is also to receive 500 rupees out of the general assets of the testator.

Ademption where stock, specifically bequeathed, does not exist at testator's death.

158. Where stock which has been specifically bequeathed does not exist at the testator's death, the legacy is adeemed.

Illustration.

A bequeaths to B—

"My capital stock of 1,000*l.* in East India Stock":

"my promissory notes of the [2][Central Government] for 10,000 rupees in their 4 per cent. loan".

A sells the stock and the notes. The legacies are adeemed.

Ademption *pro tanto* where stock, specifically bequeathed, exists in part only at testator's death.

159. Where stock which has been specifically bequeathed exists only in part at the testator's death, the legacy is adeemed so far as regards that part of the stock which has ceased to exist.

Illustration.

A bequeaths to B his 10,000 rupees in the 5½ per cent. loan of the [2][Central Government]. A sells one-half of his 10,000 rupees in the loan in question. One-half of the legacy is adeemed.

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[1] Subs. by the Repealing and Amending Act, 1927 (10 of 1927), s. 2 and Sch. I, for "5,000".

[2] Subs. by the A. O. for "G. of I."

(*Part VI —Testamentary Succession Chapter XVI —Of Ademption of Legacies*)

Non ademption of specific bequest of goods described as connected with certain place by reason of removal

160 A specific bequest of goods under a description connecting them with a certain place is not adeemed by reason that they have been removed from such place from any temporary cause, or by fraud or without the knowledge or sanction of the testator

Illustrations

(i) A bequeaths to B all my household goods which shall be in or about my dwelling house in Calcutta at the time of my death The goods are removed from the house to save them from fire A dies before they are brought back

(ii) A bequeaths to B all my household goods which shall be in or about my dwelling house in Calcutta at the time of my death During A s absence upon a journey the whole of the goods are removed from the house A dies without having sanctioned their removal

Neither of these legacies is adeemed

When removal of thing bequeathed does not constitute ademption.

161 The removal of the thing bequeathed from the place in which it is stated in the will to be situated does not constitute an ademption, where the place is only referred to in order to complete the description of what the testator meant to bequeath

Illustrations

(i) A bequeaths to B all the bills bonds and other securit es for money belonging to me no v lying in my lodg ngs in Calcutta At the time of his death these effects had been removed from his lodgings in Calcutta

(ii) *A bequeaths to B all his furniture then in his house in Calcutta The testator has a*

A s death

No one of these legacies is revoked by ademption

When thing bequeathed is a valuable to be received by testator from third person, and testator himself or his representative receives it

162 Where the thing bequeathed is not the right to receive something of value from a third person, but the money or other commodity which may be received from the third person by the testator himself or by his representatives, the receipt of such sum of money or other commodity by the testator shall not constitute an ademption, but if he mixes it up with the general mass of his property, the legacy is adeemed

Illustration

A bequeaths to B whatever sum may be received from his claim on C A receives the whole of his claim on C and sets it apart from the general mass of his property The legacy is not adeemed

Change by operation of law of subject of specific bequest between date of will and testator s death

163 Where a thing specifically bequeathed undergoes a change between the date of the will and the testator's death, and the change takes place by operation of law, or in the course of execution of the provisions of any legal instrument under which the thing bequeathed was held, the legacy is not adeemed by reason of such change

Illustrations

(i) A bequeaths to B ' all the money which I have in the 5½ per cent loan of the [1][Central Government] The securities for the 5½ per cent loan are converted during A s lifetime into 5 per cent stock

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[1] Subs by the A O for G of I '

(ii) A bequeaths to B the sum of 2,000*l.* invested in Consols in the names of trustees for A. The sum of 2,000*l.* is transferred by the trustees into A's own name.

(iii) A bequeaths to B the sum of 10,000 rupees in promissory notes of the [1][Central Government] which he has power under his marriage settlement to dispose of by will. Afterwards, in A's lifetime, the fund is converted into Consols by virtue of an authority contained in the settlement.

No one of these legacies has been adeemed.

Change of subject without testator's knowledge.

164. Where a thing specifically bequeathed undergoes a change between the date of the will and the testator's death, and the change takes place without the knowledge or sanction of the testator, the legacy is not adeemed.

Illustration.

A bequeaths to B "all my 3 per cent. Consols". The Consols are, without A's knowledge, sold by his agent, and the proceeds converted into East India Stock. This legacy is not adeemed.

Stock specifically bequeathed lent to third party on condition that it be replaced.

165. Where stock which has been specifically bequeathed is lent to a third party on condition that it shall be replaced, and it is replaced accordingly, the legacy is not adeemed.

Stock specifically bequeathed sold but replaced, and belonging to testator at his death.

166. Where stock specifically bequeathed is sold, and an equal quantity of the same stock is afterwards purchased and belongs to the testator at his death, the legacy is not adeemed.

CHAPTER XVII.

OF THE PAYMENT OF LIABILITIES IN RESPECT OF THE SUBJECT OF A BEQUEST.

Non-liability of executor to exonerate specific legatees.

167. (*1*) Where property specifically bequeathed is subject at the death of the testator to any pledge, lien or incumbrance created by the testator himself or by any person under whom he claims, then, unless a contrary intention appears by the will, the legatee, if he accepts the bequest, shall accept it subject to such pledge or incumbrance, and shall (as between himself and the testator's estate) be liable to make good the amount of such pledge or incumbrance.

(2) A contrary intention shall not be inferred from any direction which the will may contain for the payment of the testator's debts generally.

Explanation.—A periodical payment in the nature of land-revenue or in the nature of rent is not such an incumbrance as is contemplated by this section.

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[1] Subs. by the A. O. for "G. of I."

Illustrations

(i) A bequeaths to B the diamond ring given him by C At A's death the ring is held in pawn by D, to whom it has been pledged by A It is the duty of A s executors, if the state of the testator s assets will allow them, to allow B to redeem the ring

(ii) A bequeaths to B a zamindari which at A s death is subject to a mortgage for 10,000 rupees , and the whole of the principal sum, together with interest to the amount of 1,000 rupees, is due at A's death B, if he accepts the bequest, accepts it subject to this charge, and is liable, as between himself and A's estate, to pay the sum of 11,000 rupees thus due

Completion of testator's title to things bequeathed to be at cost of his estate

168. Where anything is to be done to complete the testator's title to the thing bequeathed, it is to be done at the cost of the testator's estate.

Illustrations

(i) A, having contracted in general terms for the purchase of a piece of land at a certain price, bequeaths to B, and dies before he has paid the purchase money The purchase money must be made good out of A's assets

(ii) A, having contracted for the purchase of a piece of land for a certain sum of money, one half of which is to be paid down and the other half secured by mortgage of the land, bequeaths it to B, and dies before he has paid or secured any part of the purchase money One half of the purchase money must be paid out of A's assets

Exoneration of legatee's immoveable property for which land revenue or rent payable periodically.

169. Where there is a bequest of any interest in immoveable property in respect of which payment in the nature of land-revenue or in the nature of rent has to be made periodically, the estate of the testator shall (as between such estate and the legatee) make good such payments or a proportion of them, as the case may be, up to the day of his death.

Illustration

A bequeaths to B a house, in respect of which 365 rupees are payable annually by way of rent A pays his rent at the usual time, and dies 25 days after. A's estate will make good 25 rupees in respect of the rent

Exoneration of specific legatee's stock in joint stock company.

170. In the absence of any direction in the will, where there is a specific bequest of stock in a joint stock company, if any call or other payment is due from the testator at the time of his death in respect of the stock, such call or payment shall, as between the testator's estate and the legatee, be borne by the estate , but, if any call or other payment becomes due in respect of such stock after the testator's death, the same shall, as between the testator's estate and the legatee, be borne by the legatee, if he accepts the bequest.

Illustrations

(i) [illegible]

(ii) A has agreed to take 50 shares in an intended joint stock company, and has contracted to pay up 100 rupees in respect of each share, which sum must be paid before his title to the shares can be completed A bequeaths these shares to B The estate of A must make good the payments which were necessary to complete A's title.

(iii) A bequeaths to B his shares in a certain railway. B accepts the legacy. After A's death, a call is made in respect of the shares. B must pay the call.

(iv) A bequeaths to B his shares in a joint-stock company. B accepts the bequest. Afterwards the affairs of the company are wound up, and each shareholder is called upon for contribution The amount of the contribution must be borne by the legatee.

(*v*) A is the owner of ten shares in a railway company. At a meeting held during his lifetime a call is made of fifty rupees per share, payable by three instalments. A bequeaths his shares to B, and dies between the day fixed for the payment of the first and the day fixed for the payment of the second instalment, and without having paid the first instalment. A's estate must pay the first instalment, and B, if he accepts the legacy, must pay the remaining instalments.

CHAPTER XVIII.

OF BEQUESTS OF THINGS DESCRIBED IN GENERAL TERMS.

Bequest of thing described in general terms.

171. If there is a bequest of something described in general terms, the executor must purchase for the legatee what may reasonably be considered to answer the description.

Illustrations.

(*i*) A bequeaths to B a pair of carriage-horses or a diamond ring. The executor must provide the legatee with such articles if the state of the assets will allow it.

(*ii*) A bequeaths to B "my pair of carriage-horses". A had no carriage-horses at the time of his death. The legacy fails.

CHAPTER XIX.

OF BEQUESTS OF THE INTEREST OR PRODUCE OF A FUND.

Bequest of interest or produce of fund.

172. Where the interest or produce of a fund is bequeathed to any person, and the will affords no indication of an intention that the enjoyment of the bequest should be of limited duration, the principal, as well as the interest, shall belong to the legatee.

Illustrations.

(*i*) A bequeaths to B the interest of his 5 per cent. promissory notes of the [1][Central Government]. There is no other clause in the will affecting those securities. B is entitled to A's 5 per cent. promissory notes of the [1][Central Government].

(*ii*) A bequeaths the interest of his 5½ per cent. promissory notes of the [1][Central Government] to B for his life, and after his death to C. B is entitled to the interest of the notes during his life, and C is entitled to the notes upon B's death.

(*iii*) A bequeaths to B the rents of his lands at X. B is entitled to the lands.

CHAPTER XX.

OF BEQUESTS OF ANNUITIES.

Annuity created by will payable for life only unless contrary intention appears by will.

173. Where an annuity is created by will, the legatee is entitled to receive it for his life only, unless a contrary intention appears by the will, notwithstanding that the annuity is directed to be paid out of the property generally, or that a sum of money is bequeathed to be invested in the purchase of it.

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[1] Subs. by the A. O. for "G. of I."

Illustrations

(i) A bequeaths to B 500 rupees a year B is entitled during his life to receive the annual sum of 500 rupees

(ii) A bequeaths to B the sum of 500 rupees monthly B is entitled during his life to receive the sum of 500 rupees every month

B is entitled an annuity of

Period of vesting where will directs that annuity be *provided out* of proceeds of property, or out of property generally, or where money be queathed to be invested in purchase of annuity

174. Where the will directs that an annuity shall be provided for any person out of the proceeds of property, or out of property generally, or where money is bequeathed to be invested in the purchase of any annuity for any person, on the testator's death, the legacy vests in interest in the legatee, and he is entitled at his option to have an annuity purchased for him or to receive the money appropriated for that purpose by the will

Illustrations

(i) A by his will directs that his executors shall out of his property purchase an annuity of 1,000 rupees for B B is entitled at his option to have an annuity of 1 000 rupees for his life purchased for him or to receive such a sum as will be sufficient for the purchase of such an annuity

(ii) A bequeaths a fund to B for his life, and directs that after B s death it shall be laid out in the purchase of an annuity for C B and C survive the testator C dies in B s lifetime On B s death the fund belongs to the representative of C

Abatement of annuity

175 Where an annuity is bequeathed, but the assets of the testator are not sufficient to pay all the legacies given by the will, the annuity shall abate in the same proportion as the other pecuniary legacies given by the will

Where gift of annuity and residuary gift, whole annuity to be first satisfied

176. Where there is a gift of an annuity and a residuary gift, the whole of the annuity is to be satisfied before any part of the residue is paid to the residuary legatee, and, if necessary, the capital of the testator's estate shall be applied for that purpose

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CHAPTER XXI

Of Legacies to Creditors and Portioners

Creditor *primâ facie* entitled to legacy as well as debt

177. Where a debtor bequeaths a legacy to his creditor, and it does not appear from the will that the legacy is meant as a satisfaction of the debt, the creditor shall be entitled to the legacy, as well as to the amount of the debt

Child *primâ facie* entitled to legacy as well as portion

178. Where a parent, who is under obligation by contract to provide a portion for a child, fails to do so, and afterwards bequeaths a legacy to the child, and does not intimate by his will that the legacy is meant as a satisfaction of the portion, the child shall be entitled to receive the legacy, as well as the portion

Illustration.

A, by articles entered into in contemplation of his marriage with B, covenanted that he would pay to each of the daughters of the intended marriage a portion of 20,000 rupees on her marriage. This covenant having been broken, A bequeaths 20,000 rupees to each of the married daughters of himself and B. The legatees are entitled to the benefit of this bequest in addition to their portions.

No ademption by subsequent provision for legatee.

179. No bequest shall be wholly or partially adeemed by a subsequent provision made by settlement or otherwise for the legatee.

Illustrations.

(*i*) A bequeaths 20,000 rupees to his son B. He afterwards gives to B the sum of 20,000 rupees. The legacy is not thereby adeemed.

(*ii*) A bequeaths 40,000 rupees to B, his orphan niece whom he had brought up from her infancy. Afterwards, on the occasion of B's marriage, A settles upon her the sum of 30,000 rupees. The legacy is not thereby diminished.

CHAPTER XXII.

Of Election.

Circumstances in which election takes place.

180. Where a person, by his will, professes to dispose of something which he has no right to dispose of, the person to whom the thing belongs shall elect either to confirm such disposition or to dissent from it, and, in the latter case, he shall give up any benefits which may have been provided for him by the will.

Devolution of interest relinquished by owner.

181. An interest relinquished in the circumstances stated in section 180 shall devolve as if it had not been disposed of by the will in favour of the legatee, subject, nevertheless, to the charge of making good to the disappointed legatee the amount or value of the gift attempted to be given to him by the will.

Testator's belief as to his ownership immaterial.

182. The provisions of sections 180 and 181 apply whether the testator does or does not believe that which he professes to dispose of by his will to be his own.

Illustrations.

(*i*) The farm of Sultanpur was the property of C. A bequeathed it to B, giving a legacy of 1,000 rupees to C. C has elected to retain his farm of Sultanpur, which is worth 800 rupees. C forfeits his legacy of 1,000 rupees, of which 800 rupees goes to B, and the remaining 200 rupees falls into the residuary bequest, or devolves according to the rules of intestate succession, as the case may be.

(*ii*) A bequeaths an estate to B in case B's elder brother (who is married and has children) shall leave no issue living at his death. A also bequeaths to C a jewel, which belongs to B. B must elect to give up the jewel or to lose the estate.

(*iii*) A bequeaths to B 1,000 rupees, and to C an estate which will, under a settlement, belong to B if his elder brother (who is married and has children) shall leave no issue living at his death. B must elect to give up the estate or to lose the legacy.

(*iv*) A, a person of the age of 18, domiciled in British India but owning real property in England, to which C is heir at law, bequeaths a legacy to C and, subject thereto, devises and bequeaths to B "all my property whatsoever and wheresoever", and dies under 21. The real property in England does not pass by the will. C may claim his legacy without giving up the real property in England.

(*Part VI.—Testamentary Succession. Chapter XXII.—Of Election.*)

Bequest for man's benefit how regarded for purpose of election

183. A bequest for a person's benefit is, for the purpose of election, the same thing as a bequest made to himself.

Illustration

Person deriving benefit indirectly not put to election

184. A person taking no benefit directly under a will, but deriving a benefit under it indirectly, is not put to his election.

Illustration

The lands of Sultanpur are settled upon C for life, and after his death upon D, his only child. A bequeaths the lands of Sultanpur to B, and 1,000 rupees to C. C dies intestate shortly after the testator, and without having made any election. D takes out administration to C, and as administrator elects on behalf of C's estate to take under the will. In that capacity he ... of the lands of Sultanpur. ... In his individual charac...

Person taking in individual capacity under will may in other character ...

185. A person who in his individual capacity takes a benefit under a will may, in another character, elect to take in opposition to the will.

Illustration

The estate of Sultanpur is settled upon A for life, and after his death upon B. A leaves the estate of Sultanpur to D, and 2,000 rupees to B, and 1,000 rupees to C, who is B's only child. ...

Exception to provisions of last six sections

186. Notwithstanding anything contained in sections 180 to 185, where a particular gift is expressed in the will to be in lieu of something belonging to the legatee which is also in terms disposed of by the will, then, if the legatee claims that thing, he must relinquish the particular gift, but he is not bound to relinquish any other benefit given to him by the will.

Illustration

... the legacy of 1,000 rupees.

When acceptance of benefit given by will constitutes election to take under will

187. Acceptance of a benefit given by a will constitutes an election by the legatee to take under the will, if he had knowledge of his right to elect and of those circumstances which would influence the judgment of a reasonable man in making an election, or if he waives inquiry into the circumstances.

Illustrations

... other estate ... ttled. The ... zurg to C ... possession ... firmed the bequest of Sultanpur Buzurg to C.

(Part VI.—Testamentary Succession. Chapter XXII.—Of Election. Chapter XXIII.—Of Gifts in Contemplation of Death.)

(*ii*) B, the eldest son of A, is the possessor of an estate called Sultanpur. A bequeaths Sultanpur to C, and to B the residue of A's property. B having been informed by A's executors that the residue will amount to 5,000 rupees, allows C to take possession of Sultanpur. He afterwards discovers that the residue does not amount to more than 500 rupees. B has not confirmed the bequest of the estate of Sultanpur to C.

Circumstances in which knowledge or waiver is presumed or inferred.

188. (*1*) Such knowledge or waiver of inquiry shall, in the absence of evidence to the contrary, be presumed if the legatee has enjoyed for two years the benefits provided for him by the will without doing any act to express dissent.

(*2*) Such knowledge or waiver of inquiry may be inferred from any act of the legatee which renders it impossible to place the persons interested in the subject-matter of the bequest in the same condition as if such act had not been done.

Illustration.

A bequeaths to B an estate to which C is entitled, and to C a coal mine. C takes possession of the mine and exhausts it. He has thereby confirmed the bequest of the estate to B.

When testator's representatives may call upon legatee to elect.

189. If the legatee does not, within one year after the death of the testator, signify to the testator's representatives his intention to confirm or to dissent from the will, the representatives shall, upon the expiration of that period, require him to make his election; and, if he does not comply with such requisition within a reasonable time after he has received it, he shall be deemed to have elected to confirm the will.

Postponement of election in case of disability.

190. In case of disability the election shall be postponed until the disability ceases, or until the election is made by some competent authority.

CHAPTER XXIII.

Of Gifts in Contemplation of Death.

Property transferable by gift made in contemplation of death.

191. (*1*) A man may dispose, by gift made in contemplation of death, of any moveable property which he could dispose of by will.

(*2*) A gift said to be made in contemplation of death where a man, who is ill and expects to die shortly of his illness, delivers to another the possession of any moveable property to keep as a gift in case the donor shall die of that illness.

(*3*) Such a gift may be resumed by the giver; and shall not take effect if he recovers from the illness during which it was made; nor if he survives the person to whom it was made.

Illustrations

(i) A, being ill and in expectation of death delivers to B, to be retained by him in case of A s death —

a watch
a bond granted by C to A
a bank note
a promissory note of the [1][Central Government] endorsed in blank
a bill of exchange endorsed in blank
certain mortgage deeds

A dies of the illness during which he delivered these articles

B is entitled to—

the watch
the debt secured by C s bond
the bank note
the promissory note of the [1][Central Government]
the bill of exchange
the money secured by the mortgage deeds

PART VII.

PROTECTION OF PROPERTY OF DECEASED.

192. (*1*) If any person dies leaving property, moveable or immoveable, any person claiming a right by succession thereto or to any portion thereof, may make application to the District Judge of the district where any part of the property is found or situate for relief, either after actual possession has been taken by another person or when forcible means of seizing possession are apprehended

Person claiming right by succession to property of deceased may apply for relief against wrongful possession.

(2) Any agent, relative or near friend, or the Court of Wards in cases within their cognizance, may, in the event of any minor, or any disqualified or absent person being entitled by succession to such property as aforesaid, make the like application for relief

193. The District Judge to whom such application is made shall, in the first place, examine the applicant on oath, and may make such further inquiry, if any, as he thinks necessary as to whether there is sufficient ground for believing that the party in possession or taking forcible means for seizing possession has no lawful title, and that the applicant, or the person on whose

Inquiry made by Judge

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[1] Subs by the A O for "G of I"

behalf he applies, is really entitled and is likely to be materially prejudiced if left to the ordinary remedy of a suit, and that the application is made *bona fide*.

Procedure.

194. If the District Judge is satisfied that there is sufficient ground for believing as aforesaid but not otherwise, he shall summon the party complained of, and give notice of vacant or disturbed possession by publication, and, after the expiration of a reasonable time, shall determine summarily the right to possession (subject to a suit as hereinafter provided) and shall deliver possession accordingly :

Provided that the judge shall have the power to appoint an officer who shall take an inventory of effects, and seal or otherwise secure the same, upon being applied to for the purpose, without delay, whether he shall have concluded the inquiry necessary for summoning the party complained of or not.

Appointment of curator pending determination of proceeding.

195. If it further appears upon such inquiry as aforesaid that danger is to be apprehended of the misappropriation or waste of the property before the summary proceeding can be determined, and that the delay in obtaining security from the party in possession or the insufficiency thereof is likely to expose the party out of possession to considerable risk, provided he is the lawful owner, the District Judge may appoint one or more curators whose authority shall continue according to the terms of his or their respective appointments, and in no case beyond the determination of the summary proceeding and the confirmation or delivery of possession in consequence thereof :

Provided that, in the case of land, the Judge may delegate to the Collector, or to any officer subordinate to the Collector, the powers of a curator :

Provided, further, that every appointment of a curator in respect of any property shall be duly published.

Powers conferable on curator.

196. The District Judge may authorise the curator to take possession of the property either generally, or until security is given by the party in possession, or until inventories of the property have been made, or for any other purpose necessary for securing the property from misappropriation or waste by the party in possession :

Provided that it shall be in the discretion of the Judge to allow the party in possession to continue in such possession on giving security or not, and any continuance in possession shall be subject to such orders as the Judge may issue touching inventories, or the securing of deeds or other effects.

Prohibition of exercise of certain powers by curators.

197. (*1*) Where a certificate has been granted under Part X or under the Succession Certificate Act, 1889, or a grant of probate or letters of administration has been made, a curator appointed under this part shall not exercise any authority lawfully belonging to the holder of the certificate or to the executor or administrator.

Payment of debts, etc., to curator.

(2) All persons who have paid debts or rents to a curator authorised by a Court to receive them shall be indemnified, and the curator shall be responsible for the payment thereof to the person who has obtained the certificate, probate or letters of administration, as the case may be.

198. (*1*) The District Judge shall take from the curator security for the faithful discharge of his trust, and for rendering satisfactory accounts of the same as hereinafter provided, and may authorise him to receive out of the property such remuneration, in no case exceeding five per centum on the moveable property and on the annual profits of the immoveable property, as the District Judge thinks reasonable.

Curator to give security and may receive remuneration.

(*2*) All surplus money realized by the curator shall be paid into Court, and invested in public securities for the benefit of the persons entitled thereto upon adjudication of the summary proceeding.

(*3*) Security shall be required from the curator with all reasonable despatch, and, where it is practicable, shall be taken generally to answer all cases for which the person may be afterwards appointed curator; but no delay in the taking of security shall prevent the Judge from immediately investing the curator with the powers of his office.

199. (*1*) Where the estate of the deceased person consists wholly or in part of land paying revenue to Government, in all matters regarding the propriety of summoning the party in possession, of appointing a curator, or of nominating individuals to that appointment, the District Judge shall demand a report from the Collector, and the Collector shall thereupon furnish the same:

Report from Collector where estate includes revenue-paying land.

Provided that in cases of urgency the Judge may proceed, in the first instance, without such report.

(*2*) The Judge shall not be obliged to act in conformity with any such report, but, in case of his acting otherwise than according to such report he shall immediately forward a statement of his reasons to the High Court, and the High Court if it is dissatisfied with such reasons, shall direct the Judge to proceed conformably to the report of the Collector.

200. The curator shall be subject to all orders of the District Judge regarding the institution or the defence of suits and all suits may be instituted or defended in the name of the curator on behalf of the estate:

Institution and defence of suits.

Provided that an express authority shall be requisite in the order of the curator's appointment for the collection of debts or rents; but such express authority shall enable the curator to give a full acquittance for any sums of money received by virtue thereof.

201. Pending the custody of the property by the curator, the District Judge may make such allowances to parties having a *primâ facie* right thereto as upon a summary investigation of [illegible] interested he considers necessary, [illegible] for the repayment thereof with interest, in the event of the party being found, upon the adjudication of the summary proceeding, not to be entitled thereto.

Allowances to apparent [illegible]

202. The curator shall file monthly accounts in abstract, and shall, on the expiry of each period of three months, if his administration lasts so long, and, upon giving up the possession of the property, file a detailed account of his administration to the satisfaction of the District Judge.

Accounts to be filed by curator.

Inspection of accounts and right of interested party to keep duplicate.

203. (*1*) The accounts of the curator shall be open to the inspection of all parties interested; and it shall be competent for any such interested party to appoint a separate person to keep a duplicate account of all receipts and payments by the curator.

(*2*) If it is found that the accounts of the curator are in arrear, or that they are erroneous or incomplete, or if the curator does not produce them whenever he is ordered to do so by the District Judge, he shall be punishable with fine not exceeding one thousand rupees for every such default.

Bar to appointment of second curator for same property.

204. If the Judge of any district has appointed a curator, in respect of the whole of the property of a deceased person, such appointment shall preclude the Judge of any other district within the same Province from appointing any other curator, but the appointment of a curator in respect of a portion of the property of the deceased shall not preclude the appointment within the same Province of another curator in respect of the residue or any portion thereof:

Provided that no Judge shall appoint a curator or entertain a summary proceeding in respect of property which is the subject of a summary proceeding previously instituted under this Part before another Judge:

Provided, further, that if two or more curators are appointed by different Judges for several parts of an estate, the High Court may make such order as it thinks fit for the appointment of one curator of the whole property.

Limitation of time for application for curator.

205. An application under this Part to the District Judge must be made within six months of the death of the proprietor whose property is claimed by right in succession.

Bar to enforcement of Part against public settlement or legal directions by deceased.

206. Nothing in this Part shall be deemed to authorise the contravention of any public act of settlement or of any legal directions given by a deceased proprietor of any property for the possession of his property after his decease in the event of minority or otherwise, and, in every such case, as soon as the Judge having jurisdiction over the property of a deceased person is satisfied of the existence of such directions, he shall give effect thereto.

Court of Wards to be made curator in case of minors having property subject to its jurisdiction.

207. Nothing in this Part shall be deemed to authorise any disturbance of the possession of a Court of Wards of any property; and in case a minor, or other disqualified person whose property is subject to the Court of Wards, is the party on whose behalf application is made under this Part, the District Judge, if he determines to summon the party in possession and to appoint a curator, shall invest the Court of Wards with the curatorship of the estate pending the proceeding without taking security as aforesaid; and if the minor or other disqualified person upon the adjudication of the summary proceeding, appears to be entitled to the property, possession shall be delivered to the Court of Wards.

Saving of right to bring suit.

208. Nothing contained in this Part shall be any impediment to the bringing of a suit either by the party whose application may have been rejected before or after the summoning of the party in possession, or by the party who may have been evicted from the possession under this part.

209. The decision of a District Judge in a summary proceeding under this Part shall have no other effect than that of settling the actual possession, but for this purpose it shall be final, and shall not be subject to any appeal or review. Effect of decision of summary proceeding.

210. The [1][Provincial Government] may appoint public curators for any district or number of districts, and the District Judge having jurisdiction shall nominate such public curators in all cases where the choice of a curator is left discretionary with him under this Part. Appointment of public curators.

PART VIII.

REPRESENTATIVE TITLE TO PROPERTY OF DECEASED ON SUCCESSION.

211. (*1*) The executor or administrator, as the case may be, of a deceased person is his legal representative for all purposes, and all the property of the deceased person vests in him as such. Character and property of executor or administrator as such.

(*2*) When the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, nothing herein contained shall vest in an executor or administrator any property of the deceased person which would otherwise have passed by survivorship to some other person.

212. (*1*) No right to any part of the property of a person who has died intestate can be established in any Court of Justice, unless letters of administration have first been granted by a Court of competent jurisdiction. Right to intestate's property.

(*2*) This section shall not apply in the case of the intestacy of a Hindu, Muhammadan, Buddhist, Sikh, Jaina or Indian Christian.

213. (*1*) No right as executor or legatee can be established in any Court of Justice, unless a Court of competent jurisdiction in British India has granted probate of the will under which the right is claimed, or has granted letters of administration with the will or with a copy of an authenticated copy of the will annexed. Right as executor or legatee when established.

(*2*) This section shall not apply in the case of wills made by Muhammadans, and shall only apply in the case of wills made by any Hindu, Buddhist, Sikh or Jaina where such wills are of the [2][classes] specified in [3][clauses (*a*) and (*b*) of section 57].

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[1] Subs. by the A. O. for "L. G."

[2] Subs. by the Indian Succession (Amendment) Act, 1929 (18 of 1929), s. 4, for "class."

[3] Subs. by s. 4, *ibid.*, for the words and figures "sub-section (*1*) of section 57" which had been subs. for "section 57" by the Indian Succession (Second Amendment) Act, 1928 (21 of 1928), s. 2.

(Part VIII.—Representative title to Property of Deceased on Succession.)

Proof of representative title a condition precedent to recovery through the Courts of debts from debtors of deceased persons.

214. (*1*) No Court shall—

(*a*) pass a decree against a debtor of a deceased person for payment of his debt to a person claiming on succession to be entitled to the effects of the deceased person or to any part thereof, or

(*b*) proceed, upon an application of a person claiming to be so entitled, to execute against such a debtor a decree or order for the payment of his debt,

except on the production, by the person so claiming, of—

(i) a probate or letters of administration evidencing the grant to him of administration to the estate of the deceased, or

(ii) a certificate granted under section 31 or section 32 of the Administrator General's Act, 1913, and having the debt mentioned therein, or III of

(iii) a succession certificate granted under Part X and having the debt specified therein, or

(iv) a certificate granted under the Succession Certificate Act, 1889, or VII o

(v) a certificate granted under Bombay Regulation No. VIII of 1827, and, if granted after the first day of May, 1889, having the debt specified therein.

(*2*) The word "debt" in sub-section (*1*) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes.

Effect on certificate of subsequent probate or letters of administration.

215. (*1*) A grant of probate or letters of administration in respect of an estate shall be deemed to supersede any certificate previously granted under Part X or under the Succession Certificate Act, 1889, or Bombay Regulation No. VIII of 1827, in respect of any debts or securities included in the estate. VII o

(*2*) When at the time of the grant of the probate or letters any suit or other proceeding instituted by the holder of any such certificate regarding any such debt or security is pending, the person to whom the grant is made shall, on applying to the Court in which the suit or proceeding is pending, be entitled to take the place of the holder of the certificate in the suit or proceeding:

Provided that, when any certificate is superseded under this section, all payments made to the holder of such certificate in ignorance of such supersession shall be held good against claims under the probate or letters of administration.

Grantee of probate or administration alone to sue, etc., until same revoked.

216. After any grant of probate or letters of administration, no other than the person to whom the same may have been granted shall have power to sue or prosecute any suit, or otherwise act as representative of the deceased, throughout the Province in which the same may have been granted, until such probate or letters of administration has or have been recalled or revoked.

PART IX

PROBATE, LETTERS OF ADMINISTRATION AND ADMINISTRATION ASSETS OF DECEASED

217. Save as otherwise provided by this Act or by any other law for the time being in force, all grants of probate and letters of administration with the will annexed and the administration of the assets of the deceased in cases of intestate succession shall be made or carried out, as the case may be, in accordance with the provisions of this Part. Application of Part.

CHAPTER I

OF GRANT OF PROBATE AND LETTERS OF ADMINISTRATION

218. (*1*) If the deceased has died intestate and was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, administration of his estate may be granted to any person who, according to the rules for the distribution of the estate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased's estate. To whom administration may be granted where deceased is a Hindu, Muhammadan, Buddhist, Sikh, Jaina or exempted person.

(*2*) When several such persons apply for such administration, it shall be in the discretion of the Court to grant it to any one or more of them.

(*3*) When no such person applies, it may be granted to a creditor of the deceased.

219. If the deceased has died intestate and was not a person belonging to any of the classes referred to in section 218, those who are connected with him, either by marriage or by consanguinity, are entitled to obtain letters of administration of his estate and effects in the order and according to the rules hereinafter stated, namely:— Where deceased is not a Hindu, Muhammadan, Buddhist, Sikh, Jaina or exempted person.

(*a*) If the deceased has left a widow, administration shall be granted to the widow, unless the Court sees cause to exclude her, either on the ground of some personal disqualification, or because she has no interest in the estate of the deceased.

Illustrations

(*i*) The widow is a lunatic or has committed adultery or has been barred by her marriage settlement of all interest in her husband's estate. There is cause for excluding her from the administration.

(*ii*) The widow has married again since the decease of her husband. This is not good cause for her exclusion.

(*b*) If the Judge thinks proper, he may associate any person or persons with the widow in the administration who would be entitled solely to the administration if there were no widow.

(*c*) If there is no widow, or if the Court sees cause to exclude the widow, it shall commit the administration to the person or persons who would be

beneficially entitled to the estate according to the rules for the distribution of an intestate's estate :

Provided that, when the mother of the deceased is one of the class of persons so entitled, she shall be solely entitled to administration.

(d) Those who stand in equal degree of kindred to the deceased are equally entitled to administration.

(e) The husband surviving his wife has the same right of administration of her estate as the widow has in respect of the estate of her husband.

(f) When there is no person connected with the deceased by marriage or consanguinity who is entitled to letters of administration and willing to act, they may be granted to a creditor.

(g) Where the deceased has left property in British India, letters of administration shall be granted according to the foregoing rules, notwithstanding that he had his domicile in a country in which the law relating to testate and intestate succession differs from the law of British India.

Effect of letters of administration.

220. Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death.

Acts not validated by administration.

221. Letters of administration do not render valid any intermediate acts of the administrator tending to the diminution or damage of the intestate's estate.

Probate only to appointed executor.

222. (1) Probate shall be granted only to an executor appointed by the will.

(2) The appointment may be expressed or by necessary implication.

Illustrations.

(i) A wills that C be his executor if B will not. B is appointed executor by implication.

(ii) A gives a legacy to B and several legacies to other persons, among the rest to his daughter-in-law C, and adds "but should the within-named C be not living I do constitute and appoint B my whole and sole executrix". C is appointed executrix by implication.

(iii) A appoints several persons executors of his will and codicils and his nephew residuary legatee, and in another codicil are these words,—"I appoint my nephew my residuary legatee to discharge all lawful demands against my will and codicils signed of different dates." The nephew is appointed an executor by implication.

[illegible] to [illegible] pro- [illegible] cannot be granted.

223. Probate cannot be granted to any person who is a minor or is of unsound mind [1][nor to any association of individuals unless it is a company which satisfies the conditions prescribed by rules to be made by the [2][Provincial Government] in this behalf.]

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[1] Ins. by the Indian Succession (Amendment) Act, 1931 (17 of 1931), s. 2. The words "nor, unless the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, to a married woman without the consent of her husband" which originally occurred at the end of this section had been rep. by the Indian Succession (Amendment) Act, 1927 (18 of 1927), s. 2.

[2] Subs. by the A. O. for "G. G. in C."

(*Part IX.—Probate, Letters of Administration and Administration of Assets of Deceased. Chapter I.—Of Grant of Probate and Letters of Administration.*)

224. When several executors are appointed, probate may be granted to them all simultaneously or at different times. Grant of probate to several executors simultaneously or at different times.

Illustration

A is an executor of B's will by express appointment and C an executor of it by implication. Probate may be granted to A and C at the same time or to A first and then to C, or to C first and then to A.

225. (*1*) If a codicil is discovered after the grant of probate, a separate probate of that codicil may be granted to the executor, if it in no way repeals the appointment of executors made by the will. Separate probate of codicil discovered after grant of probate.

(*2*) If different executors are appointed by the codicil, the probate of the will shall be revoked, and a new probate granted of the will and the codicil together.

226. When probate has been granted to several executors, and one of them dies, the entire representation of the testator accrues to the surviving executor or executors. Accrual of representation to surviving executor.

227. Probate of a will when granted establishes the will from the death of the testator, and renders valid all intermediate acts of the executor as such. Effect of probate.

228. When a will has been proved and deposited in a Court of competent jurisdiction situated beyond the limits of the Province, whether within or beyond the limits of His Majesty's dominions, and a properly authenticated copy of the will is produced, letters of administration may be granted with a copy of such copy annexed. Administration, with copy annexed of authenticated copy of will proved abroad.

229. When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted to any other person until a citation has been issued, calling upon the executor to accept or renounce his executorship: Grant of administration where executor has not renounced.

Provided that, when one or more of several executors have proved a will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

230. The renunciation may be made orally in the presence of the Judge, or by a writing signed by the person renouncing, and when made shall preclude him from ever thereafter applying for probate of the will appointing him executor. Form and effect of renunciation of executorship.

231. If an executor renounces, or fails to accept an executorship within the time limited for the acceptance or refusal thereof, the will may be proved and letters of administration, with a copy of the will annexed, may be granted to the person who would be entitled to administration in case of intestacy. Procedure where executor renounces or fails to accept within time limited.

232. When— Grant of administration to universal or residuary legatees.

(*a*) the deceased has made a will, but has not appointed an executor, or

(*b*) the deceased has appointed an executor who is legally incapable or refuses to act, or who has died before the testator or before he has proved the will, or

(*c*) the executor dies after having proved the will, but before he has administered all the estate of the deceased,

an universal or a residuary legatee may be admitted to prove the will, and letters of administration with the will annexed may be granted to him of the whole estate, or of so much thereof as may be unadministered.

Right to administration of representative of deceased residuary legatee.

233. When a residuary legatee who has a beneficial interest survives the testator, but dies before the estate has been fully administered, his representative has the same right to administration with the will annexed as such residuary legatee.

Grant of administration where no executor nor residuary legatee nor representative of such legatee.

234. When there is no executor and no residuary legatee or representative of a residuary legatee, or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate, or any other legatee having a beneficial interest, or a creditor, may be admitted to prove the will, and letters of administration may be granted to him or them accordingly.

Citation before grant of administration to legatee other than universal or residuary.

235. Letters of administration with the will annexed shall not be granted to any legatee other than an universal or a residuary legatee, until a citation has been issued and published in the manner hereinafter mentioned, calling on the next-of-kin to accept or refuse letters of administration.

To whom administration may not be granted.

236. Letters of administration cannot be granted to any person who is a minor or is of unsound mind, [1][nor to any association of individuals unless it is a company which satisfies the conditions prescribed by rules to be made by the [2][Provincial Government] in this behalf].

CHAPTER II.

OF LIMITED GRANTS.

Grants limited in duration.

Probate of copy or draft of lost will.

237. When a will has been lost or mislaid since the testator's death, or has been destroyed by wrong or accident and not by any act of the testator, and a copy or the draft of the will has been preserved, probate may be granted

[1] *See* footnote 1 to s. 223, *supra*.
[2] Subs. by the A. O. for "G. G. in C."

of such copy or draft, limited until the original or a properly authenticated copy of it is produced.

238. When a will has been lost or destroyed and no copy has been made nor the draft preserved, probate may be granted of its contents if they can be established by evidence. Probate of contents of lost or destroyed will.

239. When the will is in the possession of a person residing out of the Province in which application for probate is made, who has refused or neglected to deliver it up, but a copy has been transmitted to the executor, and it is necessary for the interests of the estate that probate should be granted without waiting for the arrival of the original, probate may be granted of the copy so transmitted, limited until the will or an authenticated copy of it is produced. Probate of copy where original exists.

240. Where no will of the deceased is forthcoming, but there is reason to believe that there is a will in existence, letters of administration may be granted, limited until the will or an authenticated copy of it is produced. Administration until will produced.

Grants for the use and benefit of others having right

241. When any executor is absent from the Province in which application is made, and there is no executor within the Province willing to act, letters of administration, with the will annexed, may be granted to the attorney or agent of the absent executor, for the use and benefit of his principal, limited until he shall obtain probate or letters of administration granted to himself. Administration, with will annexed, to attorney of absent executor.

242. When any person to whom, if present, letters of administration, with the will annexed, might be granted, is absent from the Province, letters of administration, with the will annexed, may be granted to his attorney or agent, limited as mentioned in section 241. Administration, with will annexed, to attorney of absent person who, if present, would be entitled to administer.

243. When a person entitled to administration in case of intestacy is absent from the Province, and no person equally entitled is willing to act, letters of administration may be granted to the attorney or agent of the absent person, limited as mentioned in section 241. Administration to attorney of absent person entitled to administer in case of intestacy.

244. When a minor is sole executor or sole residuary legatee, letters of administration, with the will annexed, may be granted to the legal guardian of such minor or to such other person as the Court may think fit until the minor has attained his majority, at which period, and not before, probate of the will shall be granted to him. Administration during minority of sole executor or residuary legatee.

245. When there are two or more minor executors and no executor who has attained majority, or two or more residuary legatees and no residuary Administration during minority of

several executors or residuary legatees.

legatee who has attained majority, the grant shall be limited until one of them shall have attained his majority.

Administration for use and benefit of lunatic or minor.

246. If a sole executor or a sole universal or residuary legatee, or a person who would be solely entitled to the estate of the intestate according to the rule for the distribution of intestates' estates applicable in the case of the deceased, is a minor or lunatic, letters of administration, with or without the will annexed, as the case may be, shall be granted to the person to whom the care of his estate has been committed by competent authority, or, if there is no such person, to such other person as the Court may think fit to appoint, for the use and benefit of the minor or lunatic until he attains majority or becomes of sound mind, as the case may be.

Administration *pendente lite*.

247. Pending any suit touching the validity of the will of a deceased person or for obtaining or revoking any probate or any grant of letters of administration, the Court may appoint an administrator of the estate of such deceased person, who shall have all the rights and powers of a general administrator, other than the right of distributing such estate, and every such administrator shall be subject to the immediate control of the Court and shall act under its direction.

Grants for special purposes.

Probate limited to purpose specified in will.

248. If an executor is appointed for any limited purpose specified in the will, the probate shall be limited to that purpose, and if he should appoint an attorney or agent to take administration on his behalf, the letters of administration, with the will annexed, shall be limited accordingly.

Administration, with will annexed, limited to particular purpose.

249. If an executor appointed generally gives an authority to an attorney or agent to prove a will on his behalf, and the authority is limited to a particular purpose, the letters of administration, with the will annexed, shall be limited accordingly.

Administration limited to property in which person has beneficial interest.

250. Where a person dies, leaving property of which he was the sole or surviving trustee, or in which he had no beneficial interest on his own account, and leaves no general representative, or one who is unable or unwilling to act as such, letters of administration, limited to such property, may be granted to the beneficiary, or to some other person on his behalf.

Administration limited to suit.

251. When it is necessary that the representative of a person deceased be made a party to a pending suit, and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of representing the deceased in the said suit, or in any other cause or suit which may be commenced in the same or in any other Court between the parties, or any other parties, touching the matters at issue in the said cause or suit, and until a final decree shall be made therein and carried into complete execution.

(Part IX.—Probate, Letters of Administration and Administration of Assets of Deceased. Chapter II.—Of Limited Grants.)

Administration limited to purpose of becoming party to suit to be brought against administrator.

252. If, at the expiration of twelve months from the date of any probate or letters of administration, the executor or administrator to whom the same has been granted is absent from the Province within which the Court which has granted the probate or letters of administration exercises jurisdiction, the Court may grant, to any person whom it may think fit, letters of administration limited to the purpose of becoming and being made a party to a suit to be brought against the executor or administrator, and carrying the decree which may be made therein into effect.

Administration limited to collection and preservation of deceased's property.

253. In any case in which it appears necessary for preserving the property of a deceased person, the Court within whose jurisdiction any of the property is situate may grant to any person whom such Court may think fit, letters of administration limited to the collection and preservation of the property of the deceased and to the giving of discharges for debts due to his estate, subject to the directions of the Court.

Appointment as administrator of person other than one who in ordinary circumstances would be entitled to administration.

254. (1) When a person has died intestate, or leaving a will of which there is no executor willing and competent to act or where the executor is, at the time of the death of such person, resident out of the Province, and it appears to the Court to be necessary or convenient to appoint some person to administer the estate or any part thereof, other than the person who in ordinary circumstances, would be entitled to a grant of administration, the Court may, in its discretion, having regard to consanguinity, amount of interest, the safety of the estate and probability that it will be properly administered, appoint such person as it thinks fit to be administrator.

(2) In every such case letters of administration may be limited or not as the Court thinks fit.

Grants with exception

Probate or administration with will annexed, subject to exception.

255. Whenever the nature of the case requires that an exception be made, probate of a will, or letters of administration with the will annexed, shall be granted subject to such exception.

Administration with exception.

256. Whenever the nature of the case requires that an exception be made, letters of administration shall be granted subject to such exception.

Grants of the rest

Probate or administration of rest.

257. Whenever a grant with exception of probate, or of letters of administration with or without the will annexed, has been made, the person entitled to probate or administration of the remainder of the deceased's estate may take a grant of probate or letters of administration, as the case may be, of the rest of the deceased's estate.

Grant of effects unadministered.

Grant of effects unadministered.

258. If an executor to whom probate has been granted has died, leaving a part of the testator's estate unadministered, a new representative may be appointed for the purpose of administering such part of the estate.

Rules as to grants of effects unadministered.

259. In granting letters of administration of an estate not fully administered, the Court shall be guided by the same rules as apply to original grants, and shall grant letters of administration to those persons only to whom original grants might have been made.

Administration when limited grant expired and still some part of estate unadministered.

260. When a limited grant has expired by efflux of time, or the happening of the event or contingency on which it was limited, and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made.

CHAPTER III.

ALTERATION AND REVOCATION OF GRANTS.

What errors may be rectified by Court.

261. Errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the Court, and the grant of probate or letters of administration may be altered and amended accordingly.

Procedure where codicil discovered after grant of administration with will annexed.

262. If, after the grant of letters of administration with the will annexed, a codicil is discovered, it may be added to the grant on due proof and identification, and the grant may be altered and amended accordingly.

Revocation or annulment for just cause.

263. The grant of probate or letters of administration may be revoked or annulled for just cause.

Explanation.—Just cause shall be deemed to exist where—

(*a*) the proceedings to obtain the grant were defective in substance; or

(*b*) the grant was obtained fraudulently by making a false suggestion, or by concealing from the Court something material to the case; or

(*c*) the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant, though such allegation was made in ignorance or inadvertently; or

(*d*) the grant has become useless and inoperative through circumstances; or

(*e*) the person to whom the grant was made has wilfully and without reasonable cause omitted to exhibit an inventory or account in accordance with the provisions of Chapter VII of this Part, or has exhibited under that Chapter an inventory or account which is untrue in a material respect.

Illustrations

(i)

(ii)

(iii)

(iv)

transpired that she was never married to him.

(v) A has taken administration to the estate of B as if he had died intestate, but a will

(viii) The person to whom probate was, or letters of administration were, granted has subsequently become of unsound mind.

CHAPTER IV

OF THE PRACTICE IN GRANTING AND REVOKING PROBATES AND LETTERS OF ADMINISTRATION

Jurisdiction of District Judge in granting and revoking probates, etc.

264. (*1*) The District Judge shall have jurisdiction in granting and revoking probates and letters of administration in all cases within his district.

(*2*) Except in cases to which section 57 applies, no Court in any local area beyond the limits of the towns of Calcutta, Madras and Bombay, [1]* * * shall, where the deceased is a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, receive applications for probate or letters of administration until the [2][Provincial Government] has, by a notification in the [3][Official Gazette], authorised it so to do.

Power to appoint Delegate of District Judge to deal with non-contentious cases.

265. (*1*) The High Court may appoint such judicial officers within any district as it thinks fit to act for the District Judge as Delegates to grant probate and letters of administration in non-contentious cases, within such local limits as it may prescribe:

Provided that, in the case of High Courts not established by Royal Charter, such appointment shall not be without the previous sanction of the [2][Provincial Government].

(*2*) Persons so appointed shall be called "District Delegates".

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[1] The words "and the province of Burma" rep. by the A. O.

[2] Subs. by the A. O. for "L. G."

[3] Subs. by the A. O. for "local official Gazette".

(Part IX.—Probate, Letters of Administration and Administration of Assets of Deceased. Chapter IV.—Of the Practice in granting and revoking Probates and Letters of Administration.)

District Judge's powers as to grant of probate and administration.

266. The District Judge shall have the like powers and authority in relation to the granting of probate and letters of administration, and all matters connected therewith, as are by law vested in him in relation to any civil suit or proceeding pending in his Court.

District Judge may order person to produce testamentary papers.

267. *(1)* The District Judge may order any person to produce and bring into Court any paper or writing, being or purporting to be testamentary, which may be shown to be in the possession or under the control of such person.

(2) If it is not shown that any such paper or writing is in the possession or under the control of such person, but there is reason to believe that he has the knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined respecting the same.

(3) Such person shall be bound to answer truly such questions as may be put to him by the Court, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like punishment under the Indian Penal Code, in case of default in not attending or in not answering such questions or not bringing in such paper or writing, as he would have been subject to in case he had been a party to a suit and had made such default. XLV 1860.

(4) The costs of the proceeding shall be in the discretion of the Judge.

Proceedings of District Judge's Court in relation to probate and administration.

268. The proceedings of the Court of the District Judge in relation to the granting of probate and letters of administration shall, save as hereinafter otherwise provided, be regulated, so far as the circumstances of the case permit, by the Code of Civil Procedure, 1908. V of

When and how District Judge to interfere for protection of property.

269. *(1)* Until probate is granted of the will of a deceased person, or an administrator of his estate is constituted, the District Judge, within whose jurisdiction any part of the property of the deceased person is situate, is authorised and required to interfere for the protection of such property at the instance of any person claiming to be interested therein, and in all other cases where the judge considers that the property incurs any risk of loss or damage; and for that purpose, if he thinks fit, to appoint an officer to take and keep possession of the property.

(2) This section shall not apply when the deceased is a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, nor shall it apply to any part of the property of an Indian Christian who has died intestate.

When probate or administration may be granted by District Judge.

270. Probate of the will or letters of administration to the estate of a deceased person may be granted by a District Judge under the seal of his Court, if it appears by a petition, verified as hereinafter provided, of the person applying for the same that the testator or intestate, as the case may be, at the time of his decease had a fixed place of abode, or any property, moveable or immoveable, within the jurisdiction of the Judge.

(Part IX —Probate, Letters of Administration and Administration of Assets of Deceased Chapter IV —Of the Practice in granting and revoking Probates and Letters of Administration)

271. When the application is made to the Judge of a district in which the deceased had no fixed abode at the time of his death, it shall be in the discretion of the Judge to refuse the application, if in his judgment it could be disposed of more justly or conveniently in another district, or, where the application is for letters of administration, to grant them absolutely, or limited to the property within his own jurisdiction

Disposal of application made to Judge of district in which deceased had no fixed abode

272 Probate and letters of administration may, upon application for that purpose to any District Delegate, be granted by him in any case in which there is no contention, if it appears by petition, verified as hereinafter provided, that the testator or intestate, as the case may be, at the time of his death had a fixed place of abode within the jurisdiction of such Delegate

Probate and letters of administration may be granted by Delegate

273. Probate or letters of administration shall have effect over all the property and estate, moveable or immoveable, of the deceased, throughout the Province in which the same is or are granted, and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him, and shall afford full indemnity to all debtors, paying their debts and all persons delivering up such property to the person to whom such probate or letters of administration have been granted

Conclusiveness of probate or letters of administration

Provided that probates and letters of administration granted—

(a) by High Court, or

(b) by a District Judge, where the deceased at the time of his death had a fixed place of abode situate within the jurisdiction of such Judge, and such Judge certifies that the value of the property and estate affected beyond the limits of the Province does not exceed ten thousand rupees,

shall, unless otherwise directed by the grant, have like effect throughout the whole of British India

[1][The proviso to this section shall apply in British India [2]after the separation of Burma and Aden from India to probates and letters of administration granted in Burma and Aden before the date of the separation, or after that date in proceedings which were pending at that date]

274. *(1)* Where probate or letters of administration has or have been granted by a High Court or District Judge with the effect referred to in the proviso to section 273, the High Court or District Judge shall send a certificate thereof to the following Courts, namely.

Transmission to High Courts of certificate of grants under proviso to section 273

(a) when the grant has been made by a High Court, to each of the other High Courts,

[1] Ins. by the A. O

[2] I e, the 1st April, 1937

(*b*) when the grant has been made by a District Judge, to the High Court to which such District Judge is subordinate and to each of the other High Courts.

(*2*) Every certificate referred to in sub-section (*1*) shall be made as nearly as circumstances admit in the form set forth in Schedule IV, and such certificate shall be filed by the High Court receiving the same.

(*3*) Where any portion of the assets has been stated by the petitioner, as hereinafter provided in sections 276 and 278, to be situate within the jurisdiction of a District Judge in another Province, the Court required to send the certificate referred to in sub-section (*1*) shall send a copy thereof to such District Judge, and such copy shall be filed by the District Judge receiving the same.

[Co]nclusive[nes]s of ap[plic]ation for [pro]bate or [adm]inistra[tio]n if pro[per]ly made [and] verified.

275. The application for probate or letters of administration, if made and verified in the manner hereinafter provided, shall be conclusive for the purpose of authorising the grant of probate or administration; and no such grant shall be impeached by reason only that the testator or intestate had no fixed place of abode or no property within the district at the time of his death, unless by a proceeding to revoke the grant if obtained by a fraud upon the Court.

[Pet]ition for [pro]bate.

276. (*1*) Application for probate or for letters of administration, with the will annexed, shall be made by a petition distinctly written in English or in the language in ordinary use in proceedings before the Court in which the application is made, with the will or, in the cases mentioned in sections 237, 238, and 239, a copy, draft, or statement of the contents thereof, annexed, and stating—

(*a*) the time of the testator's death,

(*b*) that the writing annexed is his last will and testament,

(*c*) that it was duly executed,

(*d*) the amount of assets which are likely to come to the petitioner's hands, and

(*e*) when the application is for probate, that the petitioner is the executor named in the will.

(*2*) In addition to these particulars, the petition shall further state,—

(*a*) when the application is to the District Judge, that the deceased at the time of his death had a fixed place of abode, or had some property, situate within the jurisdiction of the Judge; and

(*b*) when the application is to a District Delegate, that the deceased at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.

(*3*) Where the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another Province

the petition shall further state the amount of such assets in each Province and the District Judges within whose jurisdiction such assets are situate.

277. In cases wherein the will, copy or draft, is written in any language other than English or than that in ordinary use in proceedings before the Court, there shall be a translation thereof annexed to the petition by a translator of the Court, if the language be one for which a translator is appointed; or, if the will, copy or draft, is in any other language, then by any person competent to translate the same, in which case such translation shall be verified by that person in the following manner, namely:— In what cases translation of will to be annexed to petition. Verification of translation by person other than Court translator.

"I (*A. B.*) do declare that I read and perfectly understand the language and character of the original, and that the above is a true and accurate translation thereof."

278. (*1*) Application for letters of administration shall be made by petition distinctly written as aforesaid and stating— Petition for letters of administration.

(*a*) the time and place of the deceased's death;

(*b*) the family or other relatives of the deceased, and their respective residences;

(*c*) the right in which the petitioner claims;

(*d*) the amount of assets which are likely to come to the petitioner's hands;

(*e*) when the application is to the District Judge, that the deceased at the time of his death had a fixed place of abode, or had some property, situate within the jurisdiction of the Judge; and

(*f*) when the application is to a District Delegate, that the deceased at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.

(*2*) Where the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another Province, the petition shall further state the amount of such assets in each Province and the District Judges within whose jurisdiction such assets are situate.

279. (*1*) Every person applying to any of the Courts mentioned in the proviso to section 273 for probate of a will or letters of administration of an estate intended to have effect throughout British India, shall state in his petition, in addition to the matters respectively required by section 276 and section 278, that to the best of his belief no application has been made to any other Court for a probate of the same will or for letters of administration of the same estate, intended to have such effect as last aforesaid, Addition to statement in petition, etc., for probate or letters of administration in certain cases.

or, where any such application has been made, the Court to which it was made, the person or persons by whom it was made and the proceedings (if any) had thereon.

(*2*) The Court to which any such application is made under the proviso to section 273 may, if it thinks fit, reject the same.

Petition for probate, etc., to be signed and verified.

280. The petition for probate or letters of administration shall in all cases be subscribed by the petitioner and his pleader, if any, and shall be verified by the petitioner in the following manner, namely :—

" I (*A. B.*), the petitioner in the above petition, declare that what is stated therein is true to the best of my information and belief ".

Verification of petition for probate by one witness to will.

281. Where the application is for probate, the petition shall also be verified by at least one of the witnesses to the will (when procurable) in the manner or to the effect following, namely :—

" I (*C. D.*), one of the witnesses to the last will and testament of the testator mentioned in the above petition, declare that I was present and saw the said testator affix his signature (*or* mark) thereto (*or* that the said testator acknowledge the writing annexed to the above petition to be his last will and testament in my presence)."

Punishment for false averment in petition or declaration.

282. If any petition or declaration which is hereby required to be verified contains any averment which the person making the verification knows or believes to be false, such person shall be deemed to have committed an offence under section 193 of the Indian Penal Code. XLV 1860.

Powers of District Judge.

283. (*1*) In all cases the District Judge or District Delegate may, if he thinks proper,—

(*a*) examine the petitioner in person, upon oath ;

(*b*) require further evidence of the due execution of the will or the right of the petitioner to the letters of administration, as the case may be ;

(*c*) issue citations calling upon all persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate or letters of administration.

(*2*) The citation shall be fixed up in some conspicuous part of the court-house, and also in the office of the Collector of the district and otherwise published or made known in such manner as the Judge or District Delegate issuing the same may direct.

(*3*) Where any portion of the assets has been stated by the petitioner to be situate within the jurisdiction of a District Judge in another Province, the District Judge issuing the same shall cause a copy of the citation to be sent to such other District Judge, who shall publish the same in the same manner as if it were a citation issued by himself, and shall certify such publication to the District Judge who issued the citation.

(Part IX.—Probate, Letters of Administration and Administration of Assets of Deceased. Chapter IV.—Of the Practice in granting and revoking Probates and Letters of Administration.)

284. (*1*) Caveats against the grant of probate or administration may be lodged with the District Judge or a District Delegate. Caveats against grant of probate or administration.

(*2*) Immediately on any caveat being lodged with any District Delegate, he shall send copy thereof to the District Judge.

(*3*) Immediately on a caveat being entered with the District Judge, a copy thereof shall be given to the District Delegate, if any, within whose jurisdiction it is alleged the deceased had a fixed place of abode at the time of his death, and to any other Judge or District Delegate to whom it may appear to the District Judge expedient to transmit the same.

(*4*) The caveat shall be made as nearly as circumstances admit in the form set forth in Schedule V. Form of caveat.

285. No proceeding shall be taken on a petition for probate or letters of administration after a caveat against the grant thereof has been entered with the Judge or District Delegate to whom the application has been made or notice has been given of its entry with some other Delegate, until after such notice to the person by whom the same has been entered as the Court may think reasonable. After entry of caveat, no proceeding taken on petition until after notice to caveator.

286. A District Delegate shall not grant probate or letters of administration in any case in which there is contention as to the grant, or in which it otherwise appears to him that probate or letters of administration ought not to be granted in his Court. District Delegate when not to grant probate or administration.

Explanation.—" Contention " means the appearance of any one in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf, to oppose the proceeding.

287. In every case in which there is no contention, but it appears to the District Delegate doubtful whether the probate or letters of administration should or should not be granted, or when any question arises in relation to the grant, or application for the grant, of any probate or letters of administration, the District Delegate may, if he thinks proper, transmit a statement of the matter in question to the District Judge, who may direct the District Delegate to proceed in the matter of the application, according to such instructions as to the Judge may seem necessary, or may forbid any further proceeding by the District Delegate in relation to the matter of such application, leaving the party applying for the grant in question to make application to the Judge. Power to transmit statement to District Judge in doubtful cases where no contention.

288. In every case in which there is contention, or the District Delegate is of opinion that the probate or letters of administration should be refused in his Court, the petition, with any documents which may have been filed therewith, shall be returned to the person by whom the application was made, in order that the same may be presented to the District Judge, unless the District Delegate thinks it necessary, for the purposes of justice, to impound the same, which he is hereby authorised to do; and, in that case, the same shall be sent by him to the District Judge. Procedure where there is contention or District Delegate thinks probate or letters of administration should be refused in his Court.

(*Part IX.—Probate, Letters of Administration and Administration of Assets of Deceased. Chapter IV.—Of the Practice in granting and revoking Probates and Letters of Administration.*)

Grant of probate to be under seal of Court.

289. When it appears to the District Judge or District Delegate that probate of a will should be granted, he shall grant the same under the seal of his Court in the form set forth in Schedule VI.

Grant of letters of administration to be under seal of Court.

290. When it appears to the District Judge or District Delegate that letters of administration to the estate of a person deceased, with or without a copy of the will annexed, should be granted, he shall grant the same under the seal of his Court in the form set forth in Schedule VII.

Administration bond.

291. (*1*) Every person to whom any grant of letters of administration, other than a grant under section 241, is committed, shall give a bond to the District Judge with one or more surety or sureties, engaging for the due collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge may, by general or special order, direct.

(*2*) When the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person—

(*a*) the exception made by sub-section (*1*) in respect of a grant under section 241 shall not operate;

(*b*) the District Judge may demand a like bond from any person to whom probate is granted.

Assignment of administration bond.

292. The Court may, on application made by petition and on being satisfied that the engagement of any such bond has not been kept, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise, as the Court may think fit, assign the same to some person, his executors or administrators, who shall thereupon be entitled to sue on the said bond in his or their own name or names as if the same had been originally given to him or them instead of to the Judge of the Court, and shall be entitled to recover thereon, as trustees for all persons interested, the full amount recoverable in respect of any breach thereof.

Time for grant of probate and administration.

293. No probate of a will shall be granted until after the expiration of seven clear days, and no letters of administration shall be granted until after the expiration of fourteen clear days from the day of the testator or intestate's death.

Filing of original wills of which obate or ... on with will annexed granted.

294. (*1*) Every District Judge, or District Delegate, shall file and preserve all original wills, of which probate or letters of administration with the will annexed may be granted by him, among the records of his Court, until some public registry for wills is established.

(*2*) The [1][Provincial Government] shall make regulations for the preservation and inspection of the wills so filed.

Procedure in contentious cases.

295. In any case before the District Judge in which there is contention, the proceedings shall take, as nearly as may be, the form of a regular suit, according to the provisions of the Code of Civil Procedure, 1908, in which the V of 1[...]

[1] Subs. by the A O for "L. G."

petitioner for probate or letters of administration, as the case may be, shall be the plaintiff, and the person who has appeared to oppose the grant shall be the defendant.

Surrender of revoked probate or letters of administration.

296. (*1*) When a grant of probate or letters of administration is revoked or annulled under this Act, the person to whom the grant was made shall forthwith deliver up the probate or letters to the Court which made the grant.

(*2*) If such person wilfully and without reasonable cause omits so to deliver up the probate or letters, he shall be punishable with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to three months, or with both.

Payment to executor or administrator before probate or administration revoked.

297. When a grant of probate or letters of administration is revoked, all payments *bona fide* made to any executor or administrator under such grant before the revocation thereof shall, notwithstanding such revocation, be a legal discharge to the person making the same; and the executor or administrator who has acted under any such revoked grant may retain and reimburse himself in respect of any payments made by him which the person to whom probate or letters of administration may afterwards be granted might have lawfully made.

Power to refuse letters of administration.

298. Notwithstanding anything hereinbefore contained, it shall, where the deceased was a Muhammadan, Buddhist or exempted person, or a Hindu, Sikh or Jaina to whom section 57 does not apply, be in the discretion of the Court to make an order refusing, for reasons to be recorded by it in writing, to grant any application for letters of administration made under this Act.

Appeals from orders of District Judge.

299. Every order made by a District Judge by virtue of the powers hereby conferred upon him shall be subject to appeal to the High Court in accordance with the provisions of the Code of Civil Procedure, 1908, applicable to appeals.

Concurrent jurisdiction of High Court.

300. (*1*) The High Court shall have concurrent jurisdiction with the District Judge in the exercise of all the powers hereby conferred upon the District Judge.

(*2*) Except in cases to which section 57 applies, no High Court, in exercise of the concurrent jurisdiction hereby conferred over any local area beyond the limits of the towns of Calcutta, Madras and Bombay [1]* * * shall, where the deceased is a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, receive applications for probate or letters of administration until the [2][Provincial Government] has, by a notification in the [3][Official Gazette], authorised it so to do.

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[1] The words "and the province of Burma" rep. by the A. O.

[2] Subs. by the A. O. for "L. G."

[3] Subs. by the A. O. for "local official Gazette".

Removal of executor or administrator and provision for successor.

301. The High Court may, on application made to it, suspend, remove or discharge any private executor or administrator and provide for the succession of another person to the office of any such executor or administrator who may cease to hold office, and the vesting in such successor of any property belonging to the estate.

Directions to executor or administrator.

302. Where probate or letters of administration in respect of any estate has or have been granted under this Act, the High Court may, on application made to it, give to the executor or administrator any general or special directions in regard to the estate or in regard to the administration thereof.

CHAPTER V.

OF EXECUTORS OF THEIR OWN WRONG.

Executor of his own wrong.

303. A person who intermeddles with the estate of the deceased, or does any other act which belongs to the office of executor, while there is no rightful executor or administrator in existence, thereby makes himself an executor of his own wrong.

Exceptions.—(1) Intermeddling with the goods of the deceased for the purpose of preserving them or providing for his funeral or for the immediate necessities of his family or property, does not make an executor of his own wrong.

(2) Dealing in the ordinary course of business with goods of the deceased received from another does not make an executor of his own wrong.

Illustrations.

(*i*) A uses or gives away or sells some of the goods of the deceased, or takes them to satisfy his own debt or legacy or receives payment of the debts of the deceased. He is an executor of his own wrong.

(*ii*) A, having been appointed agent by the deceased in his lifetime to collect his debts and sell his goods, continues to do so after he has become aware of his death. He is an executor of his own wrong in respect of acts done after he has become aware of the death of the deceased.

(*iii*) A sues as executor of the deceased, not being such. He is an executor of his own wrong.

Liability of executor of his own wrong.

304. When a person has so acted as to become an executor of his own wrong, he is answerable to the rightful executor or administrator, or to any creditor or legatee of the deceased, to the extent of the assets which may have come to his hands after deducting payments made to the rightful executor or administrator, and payments made in due course of administration.

(Part IX.—Probate, Letters of Administration and Administration of Assets of Deceased. Chapter VI.—Of the Powers of an Executor or Administrator.)

CHAPTER VI.

OF THE POWERS OF AN EXECUTOR OR ADMINISTRATOR.

305. An executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and may exercise the same power for the recovery of debts as the deceased had when living.

In respect of causes of action surviving deceased and debts due at death.

306. All demands whatsoever and all rights to prosecute or defend any action or special proceeding existing in favour of or against a person at the time of his decease, survive to and against his executors or administrators; except causes of action for defamation, assault, as defined in the Indian Penal Code, or other personal injuries not causing the death of the party; and except also cases where, after the death of the party, the relief sought could not be enjoyed or granting it would be nugatory.

Demands and rights of action of or against deceased survive to and against executor or administrator.

Illustrations.

(*i*) A collision takes place on a railway in consequence of some neglect or default of an official, and a passenger is severely hurt, but not so as to cause death He afterwards dies without having brought any action. The cause of action does not survive

(*ii*) A sues for divorce. A dies The cause of action does not survive to his representative.

307. (*1*) Subject to the provisions of sub-section (*2*), an executor or administrator has power to dispose of the property of the deceased, vested in him under section 211, either wholly or in part, in such manner as he may think fit.

Power of executor or administrator to dispose of property.

Illustrations

[illegible] art of his property. The executor, not [illegible] The sale is valid.

[illegible] mortgages a part of the immoveable [illegible]

(*2*) If the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, the general power conferred by sub-section (*1*) shall be subject to the following restrictions and conditions, namely:—

(i) The power of an executor to dispose of immoveable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

(ii) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,—

(*a*) mortgage, charge or transfer by sale, gift, exchange or otherwise any immoveable property for the time being vested in him under section 211, or

(*b*) lease any such property for a term exceeding five years.

(iii) A disposal of property by an executor or administrator in contravention of clause (i) or clause (ii), as the case may be, is voidable at the instance of any other person interested in the property.

(*3*) Before any probate or letters of administration is or are granted in such a case, there shall be endorsed thereon or annexed thereto a copy of sub-section (*1*) and clauses (i) and (iii) of sub-section (*2*) or of sub-section (*1*) and clauses (ii) and (iii) of sub-section (*2*), as the case may be.

(*4*) A probate or letters of administration shall not be rendered invalid by reason of the endorsement or annexure required by sub-section (*3*) not having been made thereon or attached thereto, nor shall the absence of such an endorsement or annexure authorise an executor or administrator to act otherwise than in accordance with the provisions of this section.

General powers of administration.

308. An executor or administrator may, in addition to, and not in derogation of, any other powers of expenditure lawfully exercisable by him, incur expenditure—

(*a*) on such acts as may be necessary for the proper care or management of any property belonging to any estate administered by him, and

(*b*) with the sanction of the High Court, on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property.

Commission or agency charges.

309. An executor or administrator shall not be entitled to receive or retain any commission or agency charges at a higher rate than that for the time being fixed in respect of the Administrator General by or under the Administrator General's Act, 1913. II

Purchase by executor or administrator of deceased's property.

310. If any executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold.

Powers of several executors or administrators exercisable by one.

311. When there are several executors or administrators, the powers of all may, in the absence of any direction to the contrary, be exercised by any one of them who has proved the will or taken out administration.

Illustrations.

(*i*) One of several executors has power to release a debt due to the deceased.

(*ii*) One has power to surrender a lease.

(*iii*) One has power to sell the property of the deceased whether moveable or immoveable.

(*iv*) One has power to assent to a legacy.

(*v*) One has power to endorse a promissory note payable to the deceased.

(*vi*) The will appoints A, B, C and D to be executors, and directs that two of them shall be a quorum. No act can be done by a single executor.

(Part IX —Probate, Letters of Administration and Administration of Assets of Deceased Chapter VI —Of the Powers of an Executor or Administrator. Chapter VII —Of the Duties of an Executor or Administrator)

Survival of powers on death of one of several executors or administrators

312. Upon the death of one or more of several executors or administrators, in the absence of any direction to the contrary in the will or grant of letters of administration, all the powers of the office become vested in the survivors or survivor

Powers of administrator of effects unadministered

313. The administrator of effects unadministered has, with respect to such effects, the same powers as the original executor or administrator

Powers of administrator during minority

314. An administrator during minority has all the powers of an ordinary administrator

Powers of married executrix or administratrix

315 When a grant of probate or letters of administration has been made to a married woman, she has all the powers of an ordinary executor or administrator

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CHAPTER VII

OF THE DUTIES OF AN EXECUTOR OR ADMINISTRATOR

As to deceased's funeral.

316 It is the duty of an executor to provide funds for the performance of the necessary funeral ceremonies of the deceased in a manner suitable to his condition, if he has left property sufficient for the purpose

Inventory and account

317. (*1*) An executor or administrator shall, within six months from the grant of probate or letters of administration or within such further time as the Court which granted the probate or letters may appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits and also all the debts owing by any person to which the executor or administrator is entitled in that character, and shall in like manner within one year from the grant or within such further time as the said Court may appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of

(*2*) The High Court may prescribe the form in which an inventory or account under this section is to be exhibited

(*3*) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition he shall be deemed to have committed an offence under section 176 of the Indian Penal Code

(*4*) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section 193 of that Code.

Inventory to include property in

318 In all cases where a grant has been made of probate or letters of administration intended to have effect throughout the whole of British India,

(iii) A disposal of property by an executor or administrator in contravention of clause (i) or clause (ii), as the case may be, is voidable at the instance of any other person interested in the property.

(*3*) Before any probate or letters of administration is or are granted in such a case, there shall be endorsed thereon or annexed thereto a copy of sub-section (*1*) and clauses (i) and (iii) of sub-section (*2*) or of sub-section (*1*) and clauses (ii) and (iii) of sub-section (*2*), as the case may be.

(*4*) A probate or letters of administration shall not be rendered invalid by reason of the endorsement or annexure required by sub-section (*3*) not having been made thereon or attached thereto, nor shall the absence of such an endorsement or annexure authorise an executor or administrator to act otherwise than in accordance with the provisions of this section.

General powers of administration.

308. An executor or administrator may, in addition to, and not in derogation of, any other powers of expenditure lawfully exercisable by him, incur expenditure—

(*a*) on such acts as may be necessary for the proper care or management of any property belonging to any estate administered by him, and

(*b*) with the sanction of the High Court, on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property.

Commission or agency charges.

309. An executor or administrator shall not be entitled to receive or retain any commission or agency charges at a higher rate than that for the time being fixed in respect of the Administrator General by or under the Administrator General's Act, 1913. III c

Purchase by executor or administrator of deceased's property.

310. If any executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold.

Powers of several executors or administrators exercisable by one.

311. When there are several executors or administrators, the powers of all may, in the absence of any direction to the contrary, be exercised by any one of them who has proved the will or taken out administration.

Illustrations.

(*i*) One of several executors has power to release a debt due to the deceased.

(*ii*) One has power to surrender a lease.

(*iii*) One has power to sell the property of the deceased whether moveable or immoveable.

(*iv*) One has power to assent to a legacy.

(*v*) One has power to endorse a promissory note payable to the deceased.

(*vi*) The will appoints A, B, C and D to be executors, and directs that two of them shall be a quorum. No act can be done by a single executor.

(Part IX—Probate, Letters of Administration and Administration of Assets of Deceased Chapter VI—Of the Powers of an Executor or Administrator. Chapter VII—Of the Duties of an Executor or Administrator)

312. Upon the death of one or more of several executors or administrators, in the absence of any direction to the contrary in the will or grant of letters of administration, all the powers of the office become vested in the survivors or survivor — Survival of powers on death of one of several executors or administrators

313. The administrator of effects unadministered has, with respect to such effects, the same powers as the original executor or administrator — Powers of administrator of effects unadministered

314. An administrator during minority has all the powers of an ordinary administrator — Powers of administrator during minority

315 When a grant of probate or letters of administration has been made to a married woman, she has all the powers of an ordinary executor or administrator — Powers of married executrix or administratrix

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CHAPTER VII

Of the Duties of an Executor or Administrator

316. It is the duty of an executor to provide funds for the performance of the necessary funeral ceremonies of the deceased in a manner suitable to his condition, if he has left property sufficient for the purpose — As to deceased's funeral

317. (*1*) An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the Court which granted the probate or letters may appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits and also all the debts owing by any person to which the executor or administrator is entitled in that character; and shall in like manner, within one year from the grant or within such further time as the said Court may appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of — Inventory and account

(*2*) The High Court may prescribe the form in which an inventory or account under this section is to be exhibited

(*3*) If an executor or administrator, on being required by the Court to exhibit an inventory or account under this section, intentionally omits to comply with the requisition, he shall be deemed to have committed an offence under section 176 of the Indian Penal Code. — 1860

(*4*) The exhibition of an intentionally false inventory or account under this section shall be deemed to be an offence under section [illegible] of that Code.

318 In all cases where a grant has been made of probate or letters of administration intended to have effect throughout the whole of British India, [illegible]

any part of British India in certain cases.

the executor or administrator shall include in the inventory of the effects of the deceased all his moveable and immoveable property situate in British India, and the value of such property situate in each Province shall be separately stated in such inventory, and the probate or letters of administration shall be chargeable with a fee corresponding to the entire amount or value of the property affected thereby wheresoever situate within British India.

As to property of, and debts owing to, deceased.

319. The executor or administrator shall collect, with reasonable diligence, the property of the deceased and the debts that were due to him at the time of his death.

Expenses to be paid before all debts.

320. Funeral expenses to a reasonable amount, according to the degree and quality of the deceased, and death-bed charges, including fees for medical attendance, and board and lodging for one month previous to his death, shall be paid before all debts.

Expenses to be paid next after such expenses.

321. The expenses of obtaining probate or letters of administration, including the costs incurred for or in respect of any judicial proceedings that may be necessary for administering the estate, shall be paid next after the funeral expenses and death-bed charges.

Wages for certain services to be next paid, and then other debts.

322. Wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan or domestic servant shall next be paid, and then the other debts of the deceased according to their respective priorities (if any).

Save as aforesaid, all debts to be paid equally and rateably.

323. Save as aforesaid, no creditor shall have a right of priority over another; but the executor or administrator shall pay all such debts as he knows of, including his own, equally and rateably as far as the assets of the deceased will extend.

Application of moveable property to payment of debts where domicile not in British India.

324. (*1*) If the domicile of the deceased was not in British India, the application of his moveable property to the payment of his debts is to be regulated by the law of British India.

(*2*) No creditor who has received payment of a part of his debt by virtue of sub-section (*1*) shall be entitled to share in the proceeds of the immoveable estate of the deceased unless he brings such payment into account for the benefit of the other creditors.

(*3*) This section shall not apply where the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person.

Illustration.

A dies, having his domicile in a country where instruments under seal have priority over instruments not under seal leaving moveable property to the value of 5,000 rupees, and immoveable property to the value of 10,000 rupees, debts on instruments under seal to the amount of 10,000 rupees, and debts on instruments not under seal to the same amount. The creditors holding instruments under seal receive half of their debts out of the proceeds of the moveable estate. The proceeds of the immoveable estate are to be applied in payment of the debts on instruments not under seal until one-half of such debts has been discharged. This will leave 5,000 rupees which are to be distributed rateably amongst all the creditors without distinction, in proportion to the amount which may remain due to them.

325 Debts of every description must be paid before any legacy

Debts to be paid before legacies

326 If the estate of the deceased is subject to any contingent liabilities, an executor or administrator is not bound to pay any legacy without a sufficient indemnity to meet the liabilities whenever they may become due

Executor or administrator not bound to pay legacies without indemnity

327. If the assets, after payment of debts, necessary expenses and specific legacies, are not sufficient to pay all the general legacies in full, the latter shall abate or be diminished in equal proportions, and, in the absence of any direction to the contrary in the will, the executor has no right to pay one legatee in preference to another, or to retain any money on account of a legacy to himself or to any person for whom he is a trustee

Abatement of general legacies

328. Where there is a specific legacy, and the assets are sufficient for the payment of debts and necessary expenses the thing specified must be delivered to the legatee without any abatement

Non abatement of specific legacy when assets sufficient to pay debts

329 Where there is a demonstrative legacy, and the assets are sufficient for the payment of debts and necessary expenses, the legatee has a preferential claim for payment of his legacy out of the fund from which the legacy is directed to be paid until such fund is exhausted and if, after the fund is exhausted, part of the legacy still remains unpaid, he is entitled to rank for the remainder against the general assets as for a legacy of the amount of such unpaid remainder

Right under demonstrative legacy when assets sufficient to pay debts and necessary expenses

330 If the assets are not sufficient to answer the debts and the specific legacies, an abatement shall be made from the latter rateably in proportion to their respective amounts

Rateable abatement of specific legacies

Illustration

[illegible] valued at [illegible]

331. For the purpose of abatement, a legacy [illegible] by the will to produce an annuity, and the value of an annuity when no sum has been appropriated to produce it, shall be treated as general legacies

Legacies treated as general for purpose of abatement

CHAPTER VIII

OF ASSENT TO A LEGACY BY EXECUTOR OR ADMINISTRATOR

332. The Assent of the executor or administrator is necessary to complete a legatee's title to his legacy

Assent necessary to complete legatee's title

Illustrations.

(*i*) A by his will bequeaths to B his Government paper which is in deposit with the Imperial Bank of India. The Bank has no authority to deliver the securities, nor B a right to take possession of them, without the assent of the executor.

(*ii*) A by his will has bequeathed to C his house in Calcutta in the tenancy of B. C is not entitled to receive the rents without the assent of the executor or administrator.

Effect of executor's assent to specific legacy.

333. (*1*) The assent of the executor or administrator to a specific bequest shall be sufficient to divest his interest as executor or administrator therein, and to transfer the subject of the bequest of the legatee, unless the nature or the circumstances of the property require that it shall be transferred in a particular way.

(*2*) This assent may be verbal, and it may be either express or implied from the conduct of the executor or administrator.

Illustrations.

(*i*) A horse is bequeathed. The executor requests the legatee to dispose of it, or a third party proposes to purchase the horse from the executor, and he directs him to apply to the legatee. Assent to the legacy is implied.

(*ii*) The interest of a fund is directed by the will to be applied for the maintenance of the legatee during his minority. The executor commences so to apply it. This is an assent to the whole of the bequest.

(*iii*) A bequest is made of a fund to A and after him to B. The executor pays the interest of the fund to A. This is an implied assent to the bequest to B.

(*iv*) Executors die after paying all the debts of the testator, but before satisfaction of specific legacies. Assent to the legacies may be presumed.

(*v*) A person to whom a specific article has been bequeathed takes possession of it and retains it without any objection on the part of the executor. His assent may be presumed.

Conditional assent.

334. The assent of an executor or administrator to a legacy may be conditional, and if the condition is one which he has a right to enforce, and it is not performed, there is no assent.

Illustrations.

(*i*) A bequeaths to B his lands of Sultanpur, which at the date of the will, and at the death of A, were subject to a mortgage for 10,000 rupees. The executor assents to the bequest, on condition that B shall within a limited time pay the amount due on the mortgage at the testator's death. The amount is not paid. There is no assent.

(*ii*) The executor assents to a bequest on condition that the legatee shall pay him a sum of money. The payment is not made. The assent is nevertheless valid.

Assent of executor to his own legacy.

335. (*1*) When the executor or administrator is a legatee, his assent to his own legacy is necessary to complete his title to it, in the same way as it is required when the bequest is to another person, and his assent may, in like manner, be expressed or implied.

(*2*) Assent shall be implied if in his manner of administering the property he does any act which is referable to his character of legatee and is not referable to his character of executor or administrator.

Illustration.

An executor takes the rent of a house or the interest of Government securities bequeathed to him, and applies it to his own use. This is assent.

(Part IX.—Probate, Letters of Administration and Administration of Assets of Deceased Chapter VIII —Of Assent to a Legacy by Executor or Administrator Chapter IX —Of the Payment and Apportionment of Annuities. Chapter X —Of the Investment of Funds to provide for Legacies)

336. The assent of the executor or administrator to a legacy gives effect to it from the death of the testator

Effect of executor's assent

Illustrations

(i) A legatee sells his legacy before it is assented to by the executor The executor's subsequent assent operates for the benefit of the purchaser and completes his title to the legacy

(ii) A bequeaths 1 000 rupees to B with interest from his death The executor does not assent to his legacy until the expiration of a year from A s death B is entitled to interest from the death of A

337. An executor or administrator is not bound to pay or deliver any legacy until the expiration of one year from the testator's death

Executor when to deliver legacies

Illustration

A by his will directs his legacies to be paid within six months after his death The executor is not bound to pay them before the expiration of a year

CHAPTER IX.

OF THE PAYMENT AND APPORTIONMENT OF ANNUITIES

338. Where an annuity is given by a will and no time is fixed for its commencement, it shall commence from the testator's death, and the first payment shall be made at the expiration of a year next after that event

Commencement of annuity when no time fixed by will.

339. Where there is a direction that the annuity shall be paid quarterly or monthly, the first payment shall be due at the end of the first quarter or first month, as the case may be, after the testator's death , and shall, if the executor or administrator thinks fit, be paid when due, but the executor or administrator shall not be bound to pay it till the end of the year

When annuity, to be paid quarterly or monthly, first falls due

340. (*1*) Where there is a direction that the first payment of an annuity shall be made within one month or any other division of time from the death of the testator, or on a day certain, the successive payments are to be made on the anniversary of the earliest day on which the will authorises the first payment to be made

(2) If the annuitant dies in the interval between the times of payment, an apportioned share of the annuity shall be paid to his representative

Dates of successive payments when first payment directed to be made within a given time or on day certain : death of annuitant before date of payment.

CHAPTER X

OF THE INVESTMENT OF FUNDS TO PROVIDE FOR LEGACIES

341. Where a legacy, not being a specific legacy, is given for life, the sum bequeathed shall at the end of the year be invested in such securities as the

Investment of sum bequeathed.

where legacy, not specific, given for life.

High Court may by any general rule authorise or direct, and the proceeds thereof shall be paid to the legatee as the same shall accrue due.

Investment of general legacy, to be paid at future time: disposal of intermediate interest.

342. (*1*) Where a general legacy is given to be paid at a future time, the executor or administrator shall invest a sum sufficient to meet it in securities of the kind mentioned in section 341.

(*2*) The intermediate interest shall form part of the residue of the testator's estate.

Procedure when no fund charged with, or appropriated to, annuity.

343. Where an annuity is given and no fund is charged with its payment or appropriated by the will to answer it, a Government annuity of the specified amount shall be purchased, or, if no such annuity can be obtained, then a sum sufficient to produce the annuity shall be invested for that purpose in securities of the kind mentioned in section 341.

Transfer to residuary legatee of contingent bequest.

344. Where a bequest is contingent, the executor or administrator is not bound to invest the amount of the legacy, but may transfer the whole residue of the estate to the residuary legatee, if any, on his giving sufficient security for the payment of the legacy if it shall become due.

Investment of residue bequeathed for life, without direction to invest in particular securities.

345. (*1*) Where the testator has bequeathed the residue of his estate to a person for life without any direction to invest it in any particular securities, so much thereof as is not at the time of the testator's decease invested in securities of the kind mentioned in section 341 shall be converted into money and invested in such securities.

(*2*) This section shall not apply if the deceased was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person.

Investment of residue bequeathed for life, with direction to invest in specified securities.

346. Where the testator has bequeathed the residue of his estate to a person for life with a direction that it shall be invested in certain specified securities, so much of the estate as is not at the time of his death invested in securities of the specified kind shall be converted into money and invested in such securities.

Time and manner of conversion and investment.

347. Such conversion and investment as are contemplated by sections 345 and 346 shall be made at such times and in such manner as the executor or administrator thinks fit; and, until such conversion and investment are completed, the person who would be for the time being entitled to the income of the fund when so invested shall receive interest at the rate of four per cent. per annum upon the market-value (to be computed as at the date of the testator's death) of such part of the fund as has not been so invested :

Provided that the rate of interest prior to completion of investment shall be six per cent. per annum when the testator was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person.

348. (*1*) Where, by the terms of a bequest, the legatee is entitled to the immediate payment or possession of the money or thing bequeathed, but is a minor, and there is no direction in the will to pay it to any person on his behalf, the executor or administrator shall pay or deliver the same into the Court of the District Judge, by whom or by whose District Delegate the probate was, or letters of administration with the will annexed were, granted, to the account of the legatee, unless the legatee is a ward of the Court of Wards.

Procedure where minor entitled to immediate payment or possession of bequest, and no direction to pay to person on his behalf

(*2*) If the legatee is a ward of the Court of Wards, the legacy shall be paid to the Court of Wards to his account

(*3*) Such payment into the Court of the District Judge, or to the Court of Wards, as the case may be, shall be a sufficient discharge for the money so paid

(*4*) Money when paid in under this section shall be invested in the purchase of Government securities, which, with the interest thereon, shall be transferred or paid to the person entitled thereto, or otherwise applied for his benefit, as the Judge or the Court of Wards, as the case may be, may direct

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CHAPTER XI

Of the Produce and Interest of Legacies

349. The legatee of a specific legacy is entitled to the clear produce thereof, if any, from the testator's death

Legatee's title to produce of specific legacy

Exception —A specific bequest, contingent in its terms, does not comprise the produce of the legacy between the death of the testator and the vesting of the legacy The clear produce of it forms part of the residue of the testator's estate

Illustrations

(i) A bequeaths his flock of sheep to B Between the death of A and delivery by his executor the sheep are shorn or some of the ewes produce lambs The wool and lambs are the property of B

(ii) A bequeaths his Government securities to B, but postpones the delivery of them till the death of C The interest which falls due between the death of A and the death of C belongs to B, and must, unless he is a minor, be paid to him as it is received

(iii) The testator bequeaths all his four per cent Government promissory notes to A when he shall complete the age of 18 A, if he completes that age, is entitled to receive the notes, but the interest which accrues in respect of them between the testator's death and A's completing 18, form part of the residue

350. The legatee under a general residuary bequest is entitled to the produce of the residuary fund from the testator's death

Residuary legatee's title to produce of residuary fund

Exception.—A general residuary bequest contingent in its terms does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy. Such income goes as undisposed of.

Illustrations.

(*i*) The testator bequeaths the residue of his property to A, a minor, to be paid to him when he shall complete the age of 18. The income from the testator's death belongs to A.

(*ii*) The testator bequeaths the residue of his property to A when he shall complete the age of 18. A, if he completes that age, is entitled to receive the residue. The income which has accrued in respect of it since the testator's death goes as undisposed of.

Interest when no time fixed for payment of general legacy.

351. Where no time has been fixed for the payment of a general legacy, interest begins to run from expiration of one year from the testator's death.

Exception.—(1) Where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator.

(*2*) Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, the legacy shall bear interest from the death of the testator.

(*3*) Where a sum is bequeathed to a minor with a direction to pay for his maintenance out of it, interest is payable from the death of the testator.

Interest when time fixed.

352. Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed. The interest up to such time forms part of the residue of the testator's estate.

Exception.—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee and the legatee is a minor, the legacy shall bear interest from the death of the testator, unless a specific sum is given by the will for maintenance, or unless the will contains a direction to the contrary.

Rate of interest.

353. The rate of interest shall be four per cent. per annum in all cases except when the testator was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, in which case it shall be six per cent. per annum.

No interest on arrears of annuity within first year after testator's death.

354. No interest is payable on the arrears of an annuity within the first year from the death of the testator, although a period earlier than the expiration of that year may have been fixed by the will for making the first payment of the annuity.

Interest on sum to be invested to produce [illegible].

355. Where a sum of money is directed to be invested to produce an annuity, interest is payable on it from the death of the testator.

CHAPTER XII.

OF THE REFUNDING OF LEGACIES.

Refund of legacy paid under Court's orders.

356. When an executor or administrator has paid a legacy under the order of a Court, he is entitled to call upon the legatee to refund in the event of the assets proving insufficient to pay all the legacies.

(Part IX.—Probate, Letters of Administration and Administration of Assets of Deceased. Chapter XII.—Of the Refunding of Legacies.)

No refund if paid voluntarily.

357. When an executor or administrator has voluntarily paid a legacy, he cannot call upon a legatee to refund in the event of the assets proving insufficient to pay all the legacies.

Refund when legacy has become due on performance of condition within further time allowed under section 137.

358. When the time prescribed by the will for the performance of a condition has elapsed, without the condition having been performed, and the executor or administrator has thereupon, without fraud, distributed the assets, in such case, if further time has been allowed under section 137 for the performance of the condition, and the condition has been performed accordingly, the legacy cannot be claimed from the executor or administrator, but those to whom he has paid it are liable to refund the amount.

When each legatee compellable to refund in proportion.

359. When the executor or administrator has paid away the assets in legacies, and he is afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

Distribution of assets.

360. Where an executor or administrator has given such notices as the High Court may, by any general rule, prescribe or, if no such rule has been made, as the High Court would give in an administration suit, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets or any part thereof in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he shall not have had notice at the time of such distribution:

Provided that nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, in the hands of the persons who may have received the same respectively.

Creditor may call upon legatee to refund.

361. A creditor who has not received payment of his debt may call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies, and whether the payment of the legacy by the executor or administrator was voluntary or not.

When legatee, not satisfied or compelled to refund under section 361, cannot oblige one paid in full to refund.

362. If the assets were sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, or who has been compelled to refund under section 361, cannot oblige one who has received payment in full to refund, whether the legacy were paid to him with or without suit, although the assets have subsequently become deficient by the wasting of the executor.

When unsatisfied legatee must first proceed against executor if solvent.

363. If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy must, before he can call on a satisfied legatee to refund, first proceed against the executor or administrator if he is solvent; but if the executor or admini-

Exception.—A general residuary bequest contingent in its terms does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy. Such income goes as undisposed of.

Illustrations.

(*i*) The testator bequeaths the residue of his property to A, a minor, to be paid to him when he shall complete the age of 18. The income from the testator's death belongs to A.

(*ii*) The testator bequeaths the residue of his property to A when he shall complete the age of 18. A, if he completes that age, is entitled to receive the residue. The income which has accrued in respect of it since the testator's death goes as undisposed of.

Interest when no time fixed for payment of general legacy.

351. Where no time has been fixed for the payment of a general legacy, interest begins to run from expiration of one year from the testator's death.

Exception.—(1) Where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator.

(*2*) Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, the legacy shall bear interest from the death of the testator.

(*3*) Where a sum is bequeathed to a minor with a direction to pay for his maintenance out of it, interest is payable from the death of the testator.

Interest when time fixed.

352. Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed. The interest up to such time forms part of the residue of the testator's estate.

Exception.—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee and the legatee is a minor, the legacy shall bear interest from the death of the testator, unless a specific sum is given by the will for maintenance, or unless the will contains a direction to the contrary.

Rate of interest.

353. The rate of interest shall be four per cent. per annum in all cases except when the testator was a Hindu, Muhammadan, Buddhist, Sikh or Jaina or an exempted person, in which case it shall be six per cent. per annum.

No interest on arrears of annuity within first year after testator's death.

354. No interest is payable on the arrears of an annuity within the first year from the death of the testator, although a period earlier than the expiration of that year may have been fixed by the will for making the first payment of the annuity.

Interest on sum to be invested to produce annuity.

355. Where a sum of money is directed to be invested to produce an annuity, interest is payable on it from the death of the testator.

CHAPTER XII.

OF THE REFUNDING OF LEGACIES.

Refund of legacy paid under Court's orders.

356. When an executor or administrator has paid a legacy under the order of a Court, he is entitled to call upon the legatee to refund in the event of the assets proving insufficient to pay all the legacies.

(*Part IX —Probate, Letters of Administration and Administration of Assets of Deceased Chapter XII —Of the Refunding of Legacies*)

357. When an executor or administrator has voluntarily paid a legacy, he cannot call upon a legatee to refund in the event of the assets proving insufficient to pay all the legacies

No refund if paid voluntarily

358 When the time prescribed by the will for the performance of a condition has elapsed, without the condition having been performed, and the executor or administrator has thereupon, without fraud, distributed the assets, in such case, if further time has been allowed under section 137 for the performance of the condition, and the condition has been performed accordingly, the legacy cannot be claimed from the executor or administrator, but those to whom he has paid it are liable to refund the amount

Refund when legacy has become due on performance of condition within further time allowed under section 137

359. When the executor or administrator has paid away the assets in legacies, and he is afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

When each legatee compellable to refund in proportion.

360 Where an executor or administrator has given such notices as the High Court may, by any general rule, prescribe or, if no such rule has been made, as the High Court would give in an administration suit for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets or any part thereof, in discharge of such lawful claims as he knows of and shall not be liable for the assets so distributed to any person of whose claim he shall not have had notice at the time of such distribution

Distribution of assets

Provided that nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof in the hands of the persons who may have received the same respectively

361. A creditor who has not received payment of his debt may call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies, and whether the payment of the legacy by the executor or administrator was voluntary or not

Creditor may call upon legatee to refund

362. If the assets were sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, or who has been compelled to refund under section 361, cannot oblige one who has received payment in full to refund, whether the legacy were paid to him with or without suit, although the assets have subsequently become deficient by the wasting of the executor

When legatee not satisfied or compelled to refund under section 361, cannot oblige one paid in full to refund

363 If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy must, before he can call on a satisfied legatee to refund, first proceed against the executor or administrator if he is solvent, but if the executor or adminis-

When unsatisfied legatee must first proceed against executor, if solvent.

(iii) The deceased had a lease of less value than the rent payable for it, but terminable on notice at a particular time. The executor neglects to give the notice. He is liable to make good the loss.

369. When an executor or administrator occasions a loss to the estate by neglecting to get in any part of the property of the deceased, he is liable to make good the amount.

Liability of executor or administrator for neglect to get any part of property.

Illustrations.

(i) The executor absolutely releases a debt due to the deceased from a solvent person, or compounds with a debtor who is able to pay in full The executor is liable to make good the amount.

(ii) The executor neglects to sue for a debt till the debtor is able to plead that the claim is barred by limitation and the debt is thereby lost to the estate. The executor is liable to make good the amount.

PART X.

SUCCESSION CERTIFICATES.

370. (*1*) A succession certificate (hereinafter in this Part referred to as a certificate) shall not be granted under this Part with respect to any debt or security to which a right is required by section 212 or section 213 to be established by letters of administration or probate:

Restriction on grant of certificates under this Part.

Provided that nothing contained in this section shall be deemed to prevent the grant of a certificate to any person claiming to be entitled to the effects of a deceased Indian Christian, or to any part thereof, with respect to any debt or security, by reason that a right thereto can be established by letters of administration under this Act.

(2) For the purposes of this Part, " security " means—

(*a*) any promissory note, debenture, stock or other security of the [1][Central Government] or of a [2][Provincial Government];

(*b*) any bond, debenture, or annuity charged by Act of Parliament on the revenues of India;

(*c*) any stock or debenture of, or share in, a company or other incorporated institution;

(*d*) any debenture or other security for money issued by, or on behalf of, a local authority;

(*e*) any other security which the [3][Provincial Government] may, by notification in the [4][Official Gazette], declare to be a security for the purposes of this Part.

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[1] Subs. by the A. O. for " G. of I."
[2] Subs. by the A. O. for " L. G."
[3] Subs. by the A. O. for " G. G. in C."
[4] Subs. by the A. O. for " Gazette of India ".

(*Part X.—Succession Certificates.*)

Court having jurisdiction to grant certificate.

371. The District Judge within whose jurisdiction the deceased ordinarily resided at the time of his death, or, if at that time he had no fixed place of residence, the District Judge, within whose jurisdiction any part of the property of the deceased may be found, may grant a certificate under this Part.

Application for certificate.

372. (*1*) Application for such a certificate shall be made to the District Judge by a petition signed and verified by or on behalf of the applicant in the manner prescribed by the Code of Civil Procedure, 1908, for the signing and verification of a plaint by or on behalf of a plaintiff, and setting forth the following particulars, namely: V of

(*a*) the time of the death of the deceased;

(*b*) the ordinary residence of the deceased at the time of his death and, if such residence was not within the local limits of the jurisdiction of the Judge to whom the application is made, then the property of the deceased within those limits;

(*c*) the family or other near relatives of the deceased and their respective residences;

(*d*) the right in which the petitioner claims;

(*e*) the absence of any impediment under section 370 or under any other provision of this Act or any other enactment, to the grant of the certificate or to the validity thereof if it were granted; and

(*f*) the debts and securities in respect of which the certificate is applied for.

(*2*) If the petition contains any averment which the person verifying it knows or believes to be false, or does not believe to be true, that person shall be deemed to have committed an offence under section 198 of the Indian Penal Code. XLV

[1][(*3*) Application for such a certificate may be made in respect of any debt or debts due to the deceased creditor or in respect of portions thereof.]

Procedure on application.

373. (*1*) If the District Judge is satisfied that there is ground for entertaining the application, he shall fix a day for the hearing thereof and cause notice of the application and of the day fixed for the hearing—

(*a*) to be served on any person to whom, in the opinion of the Judge, special notice of the application should be given, and

(*b*) to be posted on some conspicuous part of the court-house and published in such other manner, if any, as the Judge, subject to any rules made by the High Court in this behalf, thinks fit,

and upon the day fixed, or as soon thereafter as may be practicable, shall proceed to decide in a summary manner the right to the certificate.

(*2*) When the Judge decides the right thereto to belong to the applicant, the Judge shall make an order for the grant of the certificate to him.

[1] Ins. by the Indian Succession (Amendment) Act, 1928 (14 of 1928), s. 2.

(3) If the Judge cannot decide the right to the certificate without determining questions of law or fact which seem to be too intricate and difficult for determination in a summary proceeding, he may nevertheless grant a certificate to the applicant if he appears to be the person having *prima facie* the best title thereto.

(4) When there are more applicants than one for a certificate, and it appears to the Judge that more than one of such applicants are interested in the estate of the deceased, the Judge may, in deciding to whom the certificate is to be granted, have regard to the extent of interest and the fitness in other respects of the applicants.

374. When the District Judge grants a certificate, he shall therein specify the debts and securities set forth in the application for the certificate, and may thereby empower the person to whom the certificate is granted— Contents of certificate.

(*a*) to receive interest or dividends on, or

(*b*) to negotiate or transfer, or

(*c*) both to receive interest or dividends on, and to negotiate or transfer, the securities or any of them.

375. (*1*) The District Judge shall in any case in which he proposes to proceed under sub-section (3) or sub-section (4) of section 373, and may, in any other case, require, as a condition precedent to the granting of a certificate, that the person to whom he proposes to make the grant shall give to the Judge a bond with one or more surety or sureties, or other sufficient security, for rendering an account of debts and securities received by him and for indemnity of persons who may be entitled to the whole or any part of those debts and securities. Requisition of security from grantee of certificate.

(*2*) The Judge may, on application made by petition and on cause shown to his satisfaction, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise, as he thinks fit, assign the bond or other security to some proper person, and that person shall thereupon be entitled to sue thereon in his own name as if it had been originally given to him instead of to the Judge of the Court, and to recover, as trustee for all persons interested, such amount as may be recoverable thereunder.

376. (*1*) A District Judge may, on the application of the holder of a certificate under this Part, extend the certificate to any debt or security not originally specified therein, and every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originally specified therein. Extension of certificate.

(*2*) Upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation or transfer of, any security to which the certificate has been extended may be conferred, and a bond or further bond or other security for the purposes mentioned in section 375 may be required, in the same manner as upon the original grant of a certificate.

(*Part X.—Succession Certificates.*)

Forms of certificate and extended certificate.

377. Certificates shall be granted and extensions of certificates shall be made, as nearly as circumstances admit, in the forms set forth in Schedule VIII.

Amendment of certificate in respect of powers as to securities.

378. Where a District Judge has not conferred on the holder of a certificate any power with respect to a security specified in the certificate, or has only empowered him to receive interest or dividends on, or to negotiate or transfer, the security, the Judge may, on application made by petition and on cause shown to his satisfaction, amend the certificate by conferring any of the powers mentioned in section 374 or by substituting any one for any other of those powers.

Mode of collecting Court-fees on certificates.

379. (*1*) Every application for a certificate or for the extension of a certificate shall be accompanied by a deposit of a sum equal to the fee payable under the Court-fees Act, 1870, in respect of the certificate or extension applied VII for.

(*2*) If the application is allowed, the sum deposited by the applicant shall be expended, under the direction of the Judge, in the purchase of the stamp to be used for denoting the fee payable as aforesaid.

(*3*) Any sum received under sub-section (*1*) and not expended under sub-section (*2*) shall be refunded to the person who deposited it.

Local extent of certificate.

380. A certificate under this Part shall have effect throughout the whole of British India.

[1][This section shall apply in British India [2]after the separation of Burma and Aden from India to certificates granted in Burma and Aden before the date[2] of the separation, or after that date in proceedings which were pending at that date.]

Effect of certificate.

381. Subject to the provisions of this Part, the certificate of the District Judge shall, with respect to the debts and securities specified therein, be conclusive as against the persons owing such debts or liable on such securities, and shall, notwithstanding any contravention of section 370, or other defect, afford full indemnity to all such persons as regards all payments made, or dealings had, in good faith in respect of such debts or securities to or with the person to whom the certificate was granted.

Effect of certificate granted or extended by British representative in Foreign State.

382. Where a certificate in the form, as nearly as circumstances admit, of Schedule VIII has been granted to a resident within a Foreign State by the British representative accredited to the State, or where a certificate so granted has been extended in such form by such representative, the certificate shall, when stamped in accordance with the provisions of the Court-fees Act, 1870, VII of with respect to certificates under this Part, have the same effect in British India as a certificate granted or extended under this Part.

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[1] Ins. by the A. O.
[2] *I.e.*, the 1st April, 1937.

(*Part X.—Succession Certificates.*)

Revocation of certificate.

383. A certificate granted under this Part may be revoked for any of the following causes, namely:—

(*a*) that the proceedings to obtain the certificate were defective in substance;

(*b*) that the certificate was obtained fraudulently by the making of a false suggestion, or by the concealment from the Court of something material to the case;

(*c*) that the certificate was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant thereof, though such allegation was made in ignorance or inadvertently;

(*d*) that the certificate has become useless and inoperative through circumstances;

(*e*) that a decree or order made by a competent Court in a suit or other proceeding with respect to effects comprising debts or securities specified in the certificate renders it proper that the certificate should be revoked.

Appeal.

384. (*1*) Subject to the other provisions of this Part, an appeal shall lie to the High Court from an order of a District Judge granting, refusing or revoking a certificate under this Part, and the High Court may, if it thinks fit, by its order on the appeal, declare the person to whom the certificate should be granted and direct the District Judge, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted.

(*2*) An appeal under sub-section (*1*) must be preferred within the time
008. allowed for an appeal under the Code of Civil Procedure, 1908.

(*3*) Subject to the provisions of sub-section (*1*) and to the provisions as to reference to and revision by the High Court and as to review of judgment of
008 the Code of Civil Procedure, 1908, as applied by section 141 of that Code, an order of a District Judge under this Part shall be final.

Effect on certificate of previous certificate, probate or letters of administration.

385. Save as provided by this Act, a certificate granted thereunder in respect of any of the effects of a deceased person shall be invalid if there has been a previous grant of such a certificate or of probate or letters of administration in respect of the estate of the deceased person and if such previous grant is in force.

Validation of certain payments made in good faith to holder of invalid certificate.

386. Where a certificate under this Part has been superseded or is invalid by reason of the certificate having been revoked under section 383, or by reason of the grant of a certificate to a person named in an appellate order under section 384, or by reason of a certificate having been previously granted, or for any other cause, all payments made, or dealings had, as regards debts and securities specified in the superseded or invalid certificate, to or with the holder of that certificate in ignorance of its supersession or invalidity, shall be held good against claims under any other certificate.

or with imprisonment for a term which may extend to three months or with both

390 Notwithstanding anything in Bombay Regulation No VIII of 1827, the provisions of section 370, sub section (2), section 372, sub section (1), clause (f), and sections 374, 375, 376, 377, 378, 379, 381, 383, 384, 387, 388 and 389 with respect to certificates under this Part and applications therefor, and of section 317 with respect to the exhibition of inventories and accounts by executors and administrators, shall, so far as they can be made applicable, apply, respectively, to certificates granted under that Regulation, and applications made for certificates thereunder, after the 1st day of May, 1889, and to the exhibition of inventories and accounts by the holders of such certificates so granted

Provisions with respect to certificates under Bombay Regulation VIII of 1827

PART XI.

MISCELLANEOUS

391 Nothing in Part VIII, Part IX or Part X shall— Saving

(i) validate any testamentary disposition which would otherwise have been invalid,

(ii) invalidate any such disposition which would otherwise have been valid,

(iii) deprive any person of any right of maintenance to which he would otherwise have been entitled, or

III of 1913 (iv) affect the Administrator General's Act, 1913

392 [*Repeals*] *Rep by the Repealing Act, 1927 (XII of 1927), s 2 and Sch*

(Schedule II.)

SCHEDULE II.

PART I

(See section 55.)

(1) Brothers and sisters, and the children or lineal descendants of such of them as shall have predeceased the intestate

(2) Grandfather and grandmother

(3) Grandfather's sons and daughters, and the lineal descendants of such of them as have predeceased the intestate

(4) Great-grandfather and great grandmother

(5) Great-grandfather's sons and daughters and the lineal descendants of such of them as have predeceased the intestate.

PART II.

(See section 56.)

(1) Father and mother

(2) Brothers and sisters and the lineal descendants of such of them as have predeceased the intestate

(3) Paternal grandfather and paternal grandmother.

(4) Children of the paternal grandfather, and the lineal descendants of such of them as have predeceased the intestate

(5) Paternal grandfather's father and mother

(6) Paternal grandfather's father's children and the lineal descendants of such of them as have predeceased the intestate.

(7) Brothers and sisters by the mother's side and the lineal descendants of such of them as have predeceased the intestate

(8) Maternal grandfather and maternal grandmother.

(9) Children of the maternal grandfather, and the lineal descendants of such of them as have predeceased the intestate.

(10) Son's widow, if she has not re-married at or before the death of the intestate

(11) Brother's widow, if she has not re-married at or before the death of the intestate

(12) Paternal grandfather's son's widow, if she has not re-married at or before the death of the intestate

(13) Maternal grandfather's son's widow, if she has not re-married at or before the death of the intestate.

(14) Widowers of the intestate's deceased daughters if they have not re-married at or before the death of the intestate.

(15) Maternal grandfather's father and mother.

(*Schedule II. Schedule III.*)

(16) Children of the maternal grandfather's father, and the lineal descendants of such of them as have predeceased the intestate.

(17) Paternal grandmother's father and mother.

(18) Children of the paternal grandmother's father, and the lineal descendants of such of them as have predeceased the intestate.

SCHEDULE III.

(*See section 57.*)

PROVISIONS OF PART VI APPLICABLE TO CERTAIN WILLS AND CODICILS DESCRIBED IN SECTION 57.

Sections 59, 61, 62, 63, 64, 68, 70, 71, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 95, 96, 98, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, [1][117,] 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, and 190.

Restrictions and modifications in application of foregoing sections.

1. Nothing therein contained shall authorise a testator to bequeath property which he could not have alienated *inter vivos*, or to deprive any persons of any right of maintenance of which, but for the application of these sections, he could not deprive them by will.

2. Nothing therein contained shall authorise any Hindu, Buddhist, Sikh or Jaina, to create in property any interest which he could not have created before the first day of September, 1870.

3. Nothing therein contained shall affect any law of adoption or intestate succession.

4. In applying section 70 the words " than by marriage or " shall be omitted.

5. In applying any of the following sections, namely, sections seventy-five, seventy-six, one hundred and five, one hundred and nine, one hundred and eleven, one hundred and twelve, one hundred and thirteen, one hundred and fourteen, one hundred and fifteen, and one hundred and sixteen to such wills and codicils the words " son," " sons," " child," and " children " shall be deemed to include an adopted child; and the word " grand-children " shall be deemed to include the children, whether adopted or natural-born, of a child whether adopted or natural-born; and the expression " daughter-in-law " shall be deemed to include the wife of an adopted son.

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[1] Ins. by the Transfer of Property (Amendment) Supplementary Act, 1929 (21 of 1929), s. 14.

(*Schedule IV Schedule V Schedule VI*)

SCHEDULE IV

[*See section 274* (2)]

Form of Certificate

I, A B , Registrar (*or* as the case may be) of the High Court of Judicature at (*or* as the case may be) hereby certify that on the day of , the High Court of Judicature at (*or* as the case may be) granted probate of the will (*or* letters of administration of the estate) of C D , late of , deceased to E F of and G H of and that such probate (*or* letters) has (*or* have) effect over all the property of the deceased throughout the whole of British India

SCHEDULE V

[*See section 284* (4)]

Form of caveat

Let nothing be done in the matter of the estate of A B , late of , deceased, who died on the day of at , without notice to C D of

SCHEDULE VI

(*See section 289*)

Form of Probate

I, , Judge of the District of [*or* Delegate appointed for granting probate or letters of administration in (*here insert the limits of the Delegate's jurisdiction*)], hereby make known that on the day of in the year , the last will of , late of , a copy whereof is hereunto annexed, was proved and registered before me, and that administration of the property and credits of the said deceased, and in any way concerning his will was granted to , the executor in the said will named, he having undertaken to administer the same, and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may, from time to time, appoint, and also to render to this Court a true account of the said property and credits within one year from the same date, or within such further time as the Court may, from time to time, appoint.

(Schedule VII. Schedule VIII.)

SCHEDULE VII.

(See section 290.)

FORM OF LETTERS OF ADMINISTRATION.

I, , Judge of the District of [*or* Delegate appointed for granting probate or letters of administration in (*here insert the limits of the Delegate's jurisdiction*)], hereby make known that on the day of letters of administration (with or without the will annexed, as the case may be), of the property and credits of late of , deceased, were granted to , the father (*or* as the case may be) of the deceased, he having undertaken to administer the same and to make a full and true inventory of the said property and credits and exhibit the same in this Court within six months from the date of this grant or within such further time as the Court may, from time to time, appoint, and also to render to this Court a true account of the said property and credits within one year from the same date, or within such further time as the Court may, from time to time, appoint.

SCHEDULE VIII.

(See section 377.)

FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

In the Court of

To A. B.

Whereas you applied on the day of for a certificate under Part X of the Indian Succession Act, 1925, in respect of the following debts and securities, namely :—

Debts.

Serial number.	[1]Number of debtor.	Amount of debt, including interest, on date of application for certificate.	Description and date of instrument, if any, by which the debt is secured.

[1] *Sic.* Should be "Name".

(Schedule VIII.)

Securities.

Serial number.	Description.			Market-value of security on date of application for certificate.
	Distinguishing number or letter of security.	Name, title or class of security	Amount or par value of security	

This certificate is accordingly granted to you and empowers you to collect those debts [*and*] [*to receive*] [*interest*] [*dividends*] [*on*] [*to negotiate*] [*to transfer*] [*those securities*].

Dated this day of .

District Judge.

In the Court of

On the application of A. B. made to me on the day of ,
I hereby extend this certificate to the following debts and securities, namely :—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for extension	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	Description.			Market-value of security on date of application for extension.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This extension empowers A. B. to collect those debts [*and*] [*to receive*] [*interest*] [*dividends*] [*on*] [*to negotiate*] [*to transfer*] [*those securities*].

Dated this day of .

District Judge.

SCHEDULE IX.—[Enactments Repealed.] Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.

THE GOVERNMENT TRADING TAXATION ACT, 1926.

Act No. III of 1926.[1]

[*24th February, 1926.*]

An Act to determine the liability of certain Governments to taxation in British India in respect of trading operations.

Whereas it is expedient to determine the liability to taxation for the time being in force in British India of the Government of any part of His Majesty's Dominions, exclusive of British India, in respect of any trade or business carried on by or on behalf of such Government; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Government Trading Taxation Act, 1926.

(*2*) It shall come into force on such date[2] as the [3][Central Government] may, by notification in the [4][Official Gazette], appoint.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 227.
[2] 1st April, 1926; *see* Gazette of India, Extraordinary, 1926, p. 60.
[3] Subs. by the A. O. for "G. G. in C."
[4] Subs. by the A. O. for "Gazette of India".

2. (*1*) Where a trade or business of any kind is carried on by or on behalf of the Government of any part of His Majesty's Dominions, exclusive of British India, that Government shall, in respect of the trade or business and of all operations connected therewith, all property occupied in British India and all goods owned in British India for the purposes thereof, and all income arising in connection therewith, be liable— **Liability of certain Governments to taxation in respect of trading operations.**

922 (*a*) to taxation under the Indian Income tax Act, 1922, in the same manner and to the same extent as in the like case a company would be liable ,

(*b*) to all other taxation for the time being in force in British India in the same manner as in the like case any other person would be liable

(*2*) For the purposes of the levy and collection of income tax under the
922 Indian Income tax Act, 1922, in accordance with the provisions of sub section (*1*), any Government to which that sub section applies shall be deemed to be a company within the meaning of that Act, and the provisions of that Act shall apply accordingly

(*3*) In this section the expression "His Majesty's Dominions" includes any territory which is under His Majesty's protection or in respect of which a mandate is being exercised by the Government of any part of His Majesty's Dominions

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THE INDIAN NATURALIZATION ACT, 1926.

ACT NO VII OF 1926.[1]

[26th February, 1926]

An Act to consolidate and amend the law relating to the naturalization in British India of aliens resident therein.

WHEREAS it is expedient to consolidate and amend the law relating to the naturalization in British India of aliens resident therein, It is hereby enacted as follows .—

1. (*1*) This Act may be called the Indian Naturalization Act, 1926 **Short title extent and commencement.**

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas

(*3*) It shall come into force on such date[2] as the [3][Central Government] may, by notification in the [4][Official Gazette], appoint

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt V, p 173, and for Report of Select Committee, *see* Gazette of India, 1926, Pt V, p. 21

[2] 1st July, 1926, *see* Gazette of India, 1926, Pt I, p 577

[3] Subs by the A O for G G in C

[4] Subs. by the A O for 'Gazette of India'

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "British subject" means a British subject as defined[1] in section 27 of the British Nationality and Status of Aliens Act, 1914; 4 & 5 (5, c. 17

(*b*) "certificate of naturalization" means a certificate of naturalization granted under this Act; and

(*c*) "minor" means any person subject to the Indian Majority Act, IX of 1 1875, who has not attained his majority within the meaning of that Act, or any other person who has not attained the age of eighteen years.

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[1] The definition runs as follows:—

"The expression 'British subject' means a person who is a natural-born British subject or a person to whom a certificate of naturalization has been granted or a person who has become a subject of His Majesty by reason of any annexation of territory."

S. 1 of the same Act defines who are natural-born British subjects, as follows:—

"1. (*1*) The following persons shall be deemed to be natural-born British subjects, namely:—

(*a*) any person born within His Majesty's dominions and allegiance; and

(*b*) any person born out of His Majesty's dominions whose father was, at the time of that person's birth, a British subject, and who fulfils any of the following conditions, that is to say, if either—

(i) his father was born within His Majesty's allegiance; or

(ii) his father was a person to whom a certificate of naturalization had been granted; or

(iii) his father had become a British subject by reason of any annexation of territory; or

(iv) his father was at the time of that person's birth in the service of the Crown; or

(v) his birth was registered at a British consulate within one year or in special circumstances, with the consent of the Secretary of State, two years after its occurrence, or in the case of a person born on or after the first day of January, nineteen hundred and fifteen, who would have been a British subject if born before that date, within twelve months after the first day of August, nineteen hundred and twenty-two; and

(*c*) any person born on board a British ship whether in foreign territorial waters or not:

Provided that the child of a British subject, whether that child was born before or after the passing of this Act, shall be deemed to have been born within His Majesty's allegiance if born in a place where by treaty, capitulation, grant, usage, sufferance, or other lawful means, His Majesty exercises jurisdiction over British subjects:

Provided also that any person whose British nationality is conditional upon registration at a British consulate shall cease to be a British subject unless within one year after he attains the age of twenty-one, or within such extended period as may be authorised in special cases by regulations made under this Act—

(i) he asserts his British nationality by a declaration of retention of British nationality, registered in such manner as may be prescribed by regulations made under this Act; and

(ii) if he is a subject or citizen of a foreign country under the law of which he can, at the time of asserting his British nationality, divest himself of the nationality of that foreign country by making a declaration of alienage or otherwise he divests himself of such nationality accordingly.

(*2*) A person born on board a foreign ship shall not be deemed to be a British subject by reason only that the ship was in British territorial waters at the time of birth.

(*3*) Nothing in this section shall, except as otherwise expressly provided, affect the status of any person born before the commencement of this Act.

(*4*) The certificate of a Secretary of State that a person was at any date in the service of the Crown shall, for the purposes of this section, be conclusive."

3. (*1*) [1][The Central Government] may grant a certificate of naturalization to any person who makes an application in this behalf and satisfies [1][the Central Government]— Grant of certificate of naturalization

(*a*) that he is not a minor,

(*b*) that he is neither a British subject nor a subject of any state in Europe or America or of any state of which an Indian British subject is prevented by or under any law from becoming a subject by naturalization,

(*c*) that he has, during a period of not less than five years immediately preceding the date of the application, either resided in British India or been in the service of the Crown [2][in India]

(*d*) that he is of good character,

(*e*) that he has an adequate knowledge of a language which has been declared by [1][the Central Government] by notification in the [3][Official Gazette], to be [4][one of the principal vernaculars of British India], and

(*f*) that he intends, if the application is granted, to reside in British India or to enter or continue in the service of the Crown [2][in India]

Provided that nothing in clause (c) or clause (*f*) shall apply in the case of a woman who was a British subject previously to her marriage to a person not a British subject and whose husband has died or whose marriage has been dissolved

(*2*) Nothing in this section shall be deemed to prevent the grant of a certificate of naturalization to any person to whom a certificate of naturalization has been issued under the Indian Naturalization Act, 1852 [5]

4. (*1*) Every application for a certificate of naturalization shall be in writing and shall state, to the best of the knowledge and belief of the applicant, Contents and form of application

(*a*) his age,

(*b*) his place of birth,

(*c*) his place of residence,

(*d*) his profession, trade, or occupation,

(*e*) full particulars regarding his qualifications in respect of the matters referred to in clauses (*a*) to (*f*) of sub section (*1*) of section 3,

(*f*) whether he has at any time previously applied for the grant of a certificate of naturalization under the British Nationality and Status of Aliens Act, 1914, or the Indian Naturalization Act, 1852,[5] or this Act,

(*g*) whether any such application has been rejected,

(*h*) whether any such certificate has been granted to him, and

(*i*) whether any such certificate granted to him has been revoked.

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[1] Subs by the A O for the L G

[2] Subs by the A O for under the Govt

[3] Subs. by the A O for local official Gazette

[4] Subs. by the A O for a principal vernacular of the province

[5] Rep. by this Act

(*2*) Every such application shall be signed by the applicant and shall be accompanied by an affidavit sworn by him verifying that the statements contained therein are true to the best of his knowledge and belief.

(*3*) [1][The Central Government] shall satisfy itself as to the truth of the statements contained in the application, and for this purpose may cause to be made such further inquiry, if any, and may require such further evidence, if any, either by affidavit or otherwise as it thinks necessary.

5. (*1*) If [1][the Central Government] is satisfied that the applicant is qualified under section 3 for the grant of a certificate of naturalization and is otherwise a fit person for the grant of such certificate, it may grant a certificate reciting the qualifications of the applicant for such grant and conferring upon him all the rights, privileges and capacities of naturalization under this Act, except such rights, privileges or capacities, if any, as may specifically be withheld by the certificate.

(*2*) Any such certificate may, if the applicant so requests, include the name of any minor child of the applicant, not being by birth a British subject, who was born before the date of the certificate and is for the time being resident in British India and under the control of the applicant; and shall grant to any child so included all the rights, privileges and capacities of naturalization under this Act, except such rights, privileges or capacities, if any, as may specifically be withheld by the certificate.

(*3*) The grant of a certificate of naturalization shall be in the absolute discretion of [1][the Central Government], and no appeal shall lie from any refusal to grant any such certificate or to include in any such grant any particular right, privilege or capacity.

6. Every person to whom a certificate of naturalization has been granted shall, within thirty days from the date of the grant thereof, take and subscribe the following oath, namely :—

" I, A. B., of ,
do hereby swear (*or* affirm) that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, His Heirs and Successors " :

Provided that [1][the Central Government] may extend the time allowed under this section in any case in which it is satisfied that failure to take and subscribe the oath within that time was due to sufficient cause.

7. (*1*) No certificate of naturalization shall have effect until the person to whom it is granted has taken and subscribed the oath prescribed by section 6, but upon the taking and subscribing of such oath such person [2]* * * * and any child of any such person who has been included in the certificate under sub-section (*2*) of section 5, shall, when in British India, be deemed to be British subjects and be entitled to all the rights, privileges and capacities of a British subject born within British India, except such rights, privileges or capacities, if any, as may have been withheld from them respectively by the certificate, and shall within British India be subject to all the obligations, duties and

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[1] Subs. by the A. O. for " the L. G."

[2] The words " the wife of any such person " rep. by the Indian Naturalization (Amendment) Act, 1935 (1 of 1935), s. 2.

liabilities of a British subject, [1][and the wife of any such person to whom a certificate of naturalization is granted after the commencement[2] of the Indian Naturalization (Amendment) Act, 1935, shall, if not already a British subject, in like manner be so deemed and be so entitled and so subject, if within one year, or such longer period as [3][the Central Government] may in special circumstances allow, from the date of the taking and subscribing of such oath by her husband, she makes to [3][the Central Government] a declaration that she desires to be deemed to be a British subject]

(2) When the person to whom a certificate of naturalization has been granted has taken and subscribed the oath prescribed by section 6, any wife thereafter married by, and any child thereafter born to, such person shall, if she or he is not a British subject and if such person aforesaid at the date of the marriage or birth, as the case may be, retains any rights, privileges or capacities of a British subject under this Act, be entitled to the same rights, privileges and capacities, and be subject to the same obligations, duties and liabilities, to which such person aforesaid was at that date entitled and subject

Revocation of certificate

8. (1) [4][Where the Central Government is satisfied that a certificate of naturalization granted under this Act, or the Indian Naturalization Act, 1852][5], was obtained by false representation or fraud or by concealment of material circumstances, or that the person to whom the certificate has been granted has shown himself by act or speech to be disaffected or disloyal to His Majesty, [3][the Central Government] shall by order in writing, revoke the certificate

(2) Without prejudice to the foregoing provisions, [6][the Central Government] shall, by order in writing, revoke such a certificate of naturalization as aforesaid in any case in which it is satisfied that the person to whom the certificate was granted—

(a) has, during any war in which His Majesty is engaged unlawfully traded or communicated with the enemy, or with a subject of an enemy state, or been engaged in, or associated with, any business which is to his knowledge carried on in such a manner as to assist the enemy in such war, or

(b) has, within five years of the date of the grant of the certificate, been sentenced by any Court in His Majesty's dominions to transportation or to penal servitude, or to imprisonment for a term of not less than twelve months, or to pay a fine of not less than one thousand rupees, or

(c) was not of good character at the date of the grant of the certificate, or

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[1] Ins by the Indian Naturalization (Amendment) Act, 1935 (1 of 1935), s. 2.
[2] Act I of 1935 was brought into force from the 11th May, 1936 *see* Gazette of India, 1936, Pt I p 524
[3] Subs. by the A O for "the L. G "
[4] Subs by the A O for the original words.
[5] Rep by this Act
[6] Subs by the A O for "such L. G "

(*d*) has since the date of the grant of the certificate been, for a period of not less than seven years, ordinarily resident out of His Majesty's dominions otherwise than as a representative of a British subject, firm or company carrying on business, or of an institution established, in His Majesty's dominions, or in the service of the Crown, and has not maintained substantial connection with His Majesty's dominions ; or

(*e*) remains, according to the law of a state at war with His Majesty, a subject of that state ;

and that the continuance of the certificate is not conducive to the public good.

[1]* * * * * * *

(*4*) [2][The Central Government] may, if it thinks fit, before making an order under this section, refer the case for such inquiry as is hereinafter specified, and, in any case to which sub-section (*1*) or clause (*a*), clause (*c*) or clause (*e*) of sub-section (*2*) applies, [2][the Central Government] shall, by notice given to, or sent by post to the last known address of, the holder of the certificate, give him an opportunity of claiming that the case be referred for such inquiry, and, if the holder so claims in accordance with the notice, [2][the Central Government] shall refer the case for inquiry accordingly.

(*5*) An inquiry under this section shall be held by such person or persons and in such manner as [2][the Central Government] may direct in each case.

(*6*) Where a certificate is revoked under this section, the revocation shall have effect from such date as may be directed by [2][the Central Government], and thereupon the certificate shall be given up and cancelled ; and any person who, without reasonable cause the burden of proving which shall lie upon him, fails to give up his certificate within one month from the aforesaid date, shall be punishable with fine, which may extend to one thousand rupees.

(*7*) For the purposes of this section, any person who has acquired any of the rights, privileges or capacities of naturalization under sub-section (*2*) of section 5 or sub-section (*2*) of section 7 by reason of the grant to his parent of a certificate of naturalization, may, after he has attained majority, be deemed to be a person to whom a certificate of naturalization has been granted.

9. (*1*) Where a certificate is revoked under section 8, the former holder thereof shall cease to be deemed to be a British subject.

(*2*) On such revocation, [2][the Central Government] may, by order in writing, direct that the wife and minor children (or any of them) of the person whose certificate is revoked shall cease to be deemed to be British subjects ; but where no such direction is made, the status of the wife and minor children of the person whose certificate is revoked shall not be affected by the revocation :

[3][Provided that no such order shall be made in the case of a wife unless by reason of the acquisition by her husband of a new nationality she has also acquired that nationality :]

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[1] Sub-section (*3*) rep. by the A. O.
[2] Subs. by the A. O. for " the L. G."
[3] Ins. by the Indian Naturalization (Amendment) Act, 1935 (1 of 1935), s. 3.

Provided [1][further] that, in the case of a wife who was at birth a British subject, no such order as aforesaid shall be made, unless [2][the Central Government] is satisfied that, if she had held a certificate of naturalization in her own right, the certificate could properly have been revoked under section 8 and the provisions of that section as to referring cases for inquiry shall apply to the making of any such order as they apply to the revocation of a certificate

Declaration of alienage

10. (*1*) A declaration of alienage in such manner as may be prescribed by rules made under this Act may be made,—

(*a*) within one year of his attaining majority, by any child who has acquired any of the rights, privileges or capacities of naturalization under sub section (*2*) of section 5, or sub section (*2*) of section 7, or

(*b*) within six months from the date of the revocation of a certificate under section 8, or of the death of or of the dissolution of her marriage with, the holder of any such certificate as is therein referred to, by the wife of the person whose certificate has been revoked, or who has died, or whose marriage to her has been dissolved, as the case may be

(*2*) Where a declaration of alienage has been made in the manner aforesaid, the person making the same, and the wife of any such person, and any children of any such person who are minors and are not by birth British subjects, shall cease to be deemed to be British subjects

[3][Provided that the wife of any such person shall not cease to be deemed to be a British subject under this sub section, unless by reason of the acquisition by her husband of a new nationality she has also acquired that nationality]

Inquiries

11. Every person making an inquiry under the orders of [4][the Central Government] under sub section (*3*) of section 4, and every person appointed to hold an inquiry under sub section (*5*) of section 8, shall be deemed to be a public servant within the meaning of the Indian Penal Code, and shall for the purposes of such inquiry have the same powers as are vested in a
08 Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters --

(i) enforcing the attendance of any person and examining him on oath,

(ii) compelling the production of documents and material objects; and

(iii) issuing commissions for the examination of witnesses,

and every such inquiry shall be deemed to be a judicial proceeding within
f 1860 the meaning of sections 193 and 228 of the Indian Penal Code

[1] Ins. by the Indian Naturalization (Amendment) Act, 1935 (I of 1935), s. 3
[2] Subs. by the A O for "the L. G "
[3] Ins. by Act I of 1935, s. 4
[4] Subs by the A O for "a L. G

12. *(1)* All oaths and affidavits for the purposes of this Act shall be sworn before a Magistrate or such other person as may be appointed in this behalf by [1][the Central Government].

(2) The Magistrate or other person by whom an oath of allegiance is administered under section 6 shall grant to the person making the same a certificate in writing of his having taken and subscribed such oath and of the date of his taking and subscribing the same, and shall forward to [1][the Central Government] the oath so taken and subscribed, together with a copy of such certificate.

13. *(1)* [1][The Central Government] may, [2]* * * by notification in the [3][Official Gazette], make rules to give effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :—

(a) the form or forms in which certificates of naturalization shall be granted, and the manner in which they shall be recorded ;

(b) the manner in which declarations of alienage shall be made and recorded ;

(c) the recording of oaths of allegiance ; and

(d) the fees which may be imposed for the issue of any certificate, whether of naturalization or otherwise, granted under this Act.

14. Nothing contained in this Act shall be deemed to entitle to any of the rights, privileges or capacities of a British subject the child of any person who is himself so entitled by reason only of the inclusion of his name in a certificate of naturalization under sub-section *(2)* of section 5 or of the grant of a certificate of naturalization to his parent.

[4][**14A.** The provisions of this Act shall, after the separation[5] of Burma and Aden from India, continue to apply, as respects British India, to certificates granted under this Act, or the Indian Naturalization Act, 1852[6], before the said separation by the Local Governments of Burma and Aden and any such certificates may after the said separation be revoked as respects British India accordingly.] XXX of 1852.

15. [*Repeals.*] *Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.*

THE SCHEDULE.—[Enactments Repealed.] Rep. by the Repealing Act, 1927 (XII of 1927), s. 2 and Sch.

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[1] Subs. by the A. O. for " the L. G."
[2] The words " with the previous sanction of the G. G. in C.," rep. by the A. O.
[3] Subs. by the A. O. for " local official Gazette ".
[4] Ins. by the A. O.
[5] *I. e.*, the 1st April, 1937.
[6] Rep. by this Act.

THE PROMISSORY NOTES (STAMP) ACT, 1926.

ACT NO XI OF 1926 [1]

[2nd March, 1926]

An Act to provide for the validation of certain promissory notes

WHEREAS it is expedient to provide for the validation of certain promissory notes stamped with postage stamps of the denomination of two or four annas, It is hereby enacted as follows —

Short title and extent.

1. (*1*) This Act may be called the Promissory Notes (Stamp) Act, 1926

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas

Validation of certain promissory notes.

2. A promissory note payable on demand for an amount exceeding two hundred and fifty rupees, executed after the 30th day of September, 1923, and before the 5th day of January 1925, and stamped with an adhesive stamp or adhesive stamps inscribed for postage and of the value required by the law in force at the time the promissory note was executed, shall not, by reason only of the fact that the stamp or the stamps or any of them is or are of a description other than that required by such law, be deemed for any of the purposes of the Indian Stamp Act, 1899, or of the rules made thereunder, not to have been duly stamped

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THE CONTEMPT OF COURTS ACT, 1926

ACT NO XII OF 1926 [2]

[8th March 1926]

An Act to define and limit the powers of certain Courts in punishing contempts of courts

WHEREAS doubts have arisen as to the powers of a High Court of Judicature to punish contempts of [3]* Courts,

And whereas it is expedient to resolve these doubts and to define and limit the powers exercisable by High Courts and Chief Courts in punishing contempts of court, It is hereby enacted as follows —

Short title, extent and commencement.

1. (*1*) This Act may be called the Contempt of Courts Act, 1926

(*2*) It shall extend to the whole of British India

(*3*) It shall come into force on such date[4] as the [5][Central Government] may, by notification in the [6][Official Gazette], appoint

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1926 Pt. V, p. 70

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p 42, and for Report of Select Committee, *see ibid* p 249

[3] The word 'subordinate' rep by the Contempt of Courts (Amendment) Act, 1937 (12 of 1937) s. 2

[4] 1st May 1926 *see* Gazette of India 1926 Pt I, p 442

[5] Subs by the A O for 'G G in C.'

[6] Subs by the A O for 'Gazette of India'

2. (*1*) Subject to the provisions of sub-section (*3*), the High Courts of Judicature established by Letters Patent shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to them as they have and exercise in respect of contempts of themselves.

(*2*) Subject to the provisions of sub-section (*3*), a Chief Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempt of itself as a High Court referred to in sub-section (*1*).

(*3*) No High Court shall take cognisance of a contempt alleged to have been committed in respect of a Court subordinate to it where such contempt is an offence punishable under the Indian Penal Code. XLV of 1860.

3. Save as otherwise expressly provided by any law for the time being in force, a contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine, which may extend to two thousand rupees, or with both :

Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the Court :

[1][Provided further that notwithstanding anything elsewhere contained in any law no High Court shall impose a sentence in excess of that specified in this section for any contempt either in respect of itself or of a Court subordinate to it.]

THE INDIAN TRADE UNIONS ACT, 1926.

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[1] Ins. by the Contempt of Courts (Amendment) Act, 1937 (12 of 1937), s. 3.

(*Chapter I.—Preliminary.*)

ACT NO. XVI OF 1926.[1]

[*25th March, 1926.*]

An Act to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions in British India.

WHEREAS it is expedient to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions in British India ; It is hereby enacted as follows :—

CHAPTER I.

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Trade Unions Act, 1926.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall come into force on such date[2] as the [3][Central Government] may, by notification in the [4][Official Gazette], appoint.

Definitions.

2. In this Act [5][" the appropriate Government " means, in relation to Trade Unions whose objects are not confined to one Province, the Central Government, and in relation to other Trade Unions, the Provincial Government, and], unless there is anything repugnant in the subject or context,—

(*a*) " executive " means the body, by whatever name called, to which the management of the affairs of a Trade Union is entrusted ;

(*b*) " officer ", in the case of a Trade Union, includes any member of the executive thereof, but does not include an auditor ;

(*c*) " prescribed " means prescribed by regulations made under this Act ;

(*d*) " registered office " means that office of a Trade-Union which is registered under this Act as the head office thereof ;

(*e*) " Registered Trade Union " means a Trade Union registered under this Act ;

(*f*) " Registrar " means a Registrar of Trade Unions appointed by the [6][appropriate Government] under section 3, and " the Registrar ", in relation to any Trade Union, means the Registrar appointed for the Province in which the head or registered office, as the case may be, of the Trade Union is situated ;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1925, Pt. V, p. 8, and for Report of Select Committee, *see ibid.*, p. 197.
[2] 1st June, 1927 ; *see* Gazette of India, 1927, Pt. I, p. 467.
[3] Subs. by the A. O. for " G. G. in C."
[4] Subs. by the A. O. for " Gazette of India ".
[5] Ins. by the A. O.
[6] Subs. by the A. O. for " L. G."

(g) "trade dispute" means any dispute between employers and workmen or between workmen and workmen, or between employers and employers which is connected with the employment or non-employment, or the terms of employment or the conditions of labour, of any person, and "workmen" means all persons employed in trade or industry whether or not in the employment of the employer with whom the trade dispute arises, and

(h) "Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions

Provided that this Act shall not affect—

(i) any agreement between partners as to their own business,
(ii) any agreement between an employer and those employed by him as to such employment, or
(iii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.

CHAPTER II

Registration of Trade Unions

3. [1][The appropriate Government] shall appoint a person to be the Registrar of Trade Unions for [2][each Province]. Appointment of Registrars

4. Any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the Trade Union under this Act. Mode of registration.

5. (1) Every application for registration of a Trade Union shall be made to the Registrar, and shall be accompanied by a copy of the rules of the Trade Union and a statement of the following particulars, namely — Application for registration

(a) the names, occupations and addresses of the members making the application,
(b) the name of the Trade Union and the address of its head office; and
(c) the titles, names, ages, addresses and occupations of the officers of the Trade Union

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[1] Subs by the A O for "Each L. G."
[2] Subs by the A O for "the province"

(Chapter II.—Registration of Trade Unions.)

(2) Where a Trade Union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars as may be prescribed.

Provisions to be contained in the rules of a Trade Union.

6. A Trade Union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely :—

(*a*) the name of the Trade Union;

(*b*) the whole of the objects for which the Trade Union has been established;

(*c*) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;

(*d*) the maintenance of a list of the members of the Trade Union and adequate facilities for the inspection thereof by the officers and members of the Trade Union;

(*e*) the admission of ordinary members who shall be persons actually engaged or employed in an industry with which the Trade Union is connected, and also the admission of the number of honorary or temporary members as officers required under section 22 to form the executive of the Trade Union;

(*f*) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;

(*g*) the manner in which the rules shall be amended, varied or rescinded;

(*h*) the manner in which the members of the executive and the other officers of the Trade Union shall be appointed and removed;

(*i*) the safe custody of the funds of the Trade Union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the officers and members of the Trade Union; and

(*j*) the manner in which the Trade Union may be dissolved.

Power to call for further particulars and to require alteration of name.

7. (*1*) The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 5, or that the Trade Union is entitled to registration under section 6, and may refuse to register the Trade Union until such information is supplied.

(*2*) If the name under which a Trade Union is proposed to be registered is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall require the persons applying for registration to alter the name of the Trade Union stated in the application, and shall refuse to register the Union until such alteration has been made.

(*Chapter II.—Registration of Trade Unions.*)

8. The Registrar, on being satisfied that the Trade Union has complied with all the requirements of this Act in regard to registration, shall register the Trade Union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the Trade Union contained in the statement accompanying the application for registration. Registration.

9. The Registrar, on registering a Trade Union under section 8, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the Trade Union has been duly registered under this Act. Certificate of registration.

10. A certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar— Cancellation of registration.

(*a*) on the application of the Trade Union to be verified in such manner as may be prescribed, or

(*b*) if the Registrar is satisfied that the certificate has been obtained by fraud or mistake, or that the Trade Union has ceased to exist or has wilfully and after notice from the Registrar contravened any provision of this Act or allowed any rule to continue in force which is inconsistent with any such provision, or has rescinded any rule providing for any matter provision for which is required by section 6:

Provided that not less than two months' previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the Registrar to the Trade Union before the certificate is withdrawn or cancelled otherwise than on the application of the Trade Union.

[1][**11.** (*1*) Any person aggrieved by any refusal of the Registrar to register a Trade Union or by the withdrawal or cancellation of a certificate of registration may, within such period as may be prescribed, appeal— Appeal.

(*a*) where the head office of the Trade Union is situated within the limits of a Presidency town [2] * * * to the High Court, or

(*b*) where the head office is situated in any other area, to such Court, not inferior to the Court of an additional or assistant Judge of a principal Civil Court of original jurisdiction, as the [3][appropriate Government] may appoint in this behalf for that area.

(*2*) The appellate Court may dismiss the appeal, or pass an order directing the Registrar to register the Union and to issue a certificate of registration under the provisions of section 9 or setting aside the order for withdrawal or cancellation of the certificate, as the case may be, and the Registrar shall comply with such order.

(*3*) For the purpose of an appeal under sub-section (*1*) an appellate Court shall, so far as may be, follow the same procedure and have the same powers

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[1] Subs. by the Indian Trade Unions (Amendment) Act, 1928 (15 of 1928), s. 2, for the original section.
[2] The words "or of Rangoon" rep. by the A. O.
[3] Subs. by the A. O. for "L. G."

(*Chapter II.—Registration of Trade Unions.*)

(2) Where a Trade Union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars as may be prescribed.

Provisions to be contained in the rules of a Trade Union.

6. A Trade Union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely :—

(*a*) the name of the Trade Union ;

(*b*) the whole of the objects for which the Trade Union has been established ;

(*c*) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act ;

(*d*) the maintenance of a list of the members of the Trade Union and adequate facilities for the inspection thereof by the officers and members of the Trade Union ;

(*e*) the admission of ordinary members who shall be persons actually engaged or employed in an industry with which the Trade Union is connected, and also the admission of the number of honorary or temporary members as officers required under section 22 to form the executive of the Trade Union ;

(*f*) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members ;

(*g*) the manner in which the rules shall be amended, varied or rescinded ;

(*h*) the manner in which the members of the executive and the other officers of the Trade Union shall be appointed and removed ;

(*i*) the safe custody of the funds of the Trade Union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the officers and members of the Trade Union ; and

(*j*) the manner in which the Trade Union may be dissolved.

Power to call for further particulars and to require alteration of name.

7. (*1*) The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 5, or that the Trade Union is entitled to registration under section 6, and may refuse to register the Trade Union until such information is supplied.

(*2*) If the name under which a Trade Union is proposed to be registered is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall require the persons applying for registration to alter the name of the Trade Union stated in the application, and shall refuse to register the Union until such alteration has been made.

(*Chapter II —Registration of Trade Unions*)

8. The Registrar, on being satisfied that the Trade Union has complied with all the requirements of this Act in regard to registration, shall register the Trade Union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the Trade Union contained in the statement accompanying the application for registration *Registration.*

9. The Registrar, on registering a Trade Union under section 8, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the Trade Union has been duly registered under this Act *Certificate of registration.*

10 A certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar— *Cancellation of registration*

(*a*) on the application of the Trade Union to be verified in such manner as may be prescribed, or

(*b*) if the Registrar is satisfied that the certificate has been obtained by fraud or mistake, or that the Trade Union has ceased to exist or has wilfully and after notice from the Registrar contravened any provision of this Act or allowed any rule to continue in force which is inconsistent with any such provision, or has rescinded any rule providing for any matter provision for which is required by section 6

Provided that not less than two months' previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the Registrar to the Trade Union before the certificate is withdrawn or cancelled otherwise than on the application of the Trade Union

[1][**11.** (*1*) Any person aggrieved by any refusal of the Registrar to register a Trade Union or by the withdrawal or cancellation of a certificate of registration may, within such period as may be prescribed, appeal— *Appeal*

(*a*) where the head office of the Trade Union is situated within the limits of a Presidency town [2] * * * to the High Court, or

(*b*) where the head office is situated in any other area, to such Court, not inferior to the Court of an additional or assistant Judge of a principal Civil Court of original jurisdiction, as the [3][appropriate Government] may appoint in this behalf for that area.

(*2*) The appellate Court may dismiss the appeal, or pass an order directing the Registrar to register the Union and to issue a certificate of registration under the provisions of section 9 or setting aside the order for withdrawal or cancellation of the certificate, as the case may be, and the Registrar shall comply with such order

(*3*) For the purpose of an appeal under sub section (*1*) an appellate Court shall, so far as may be, follow the same procedure and have the same powers

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[1] Subs. by the Indian Trade Unions (Amendment) Act, 1928 (15 of 1928), s. 2 for the original Section.

[2] The words 'or of Rangoon' rep. by the A O

[3] Subs by the A O for 'L. G'

as it follows and has when trying a suit under the Code of Civil Procedur 1908, and may direct by whom the whole or any part of the costs of the appe shall be paid, and such costs shall be recovered as if they had been awarde in a suit under the said Code.

(4) In the event of the dismissal of an appeal by any Court appointed unde clause (b) of sub-section (1), the person aggrieved shall have a right of appea to the High Court, and the High Court shall, for the purpose of such appeal have all the powers of an appellate Court under sub-sections (2) and (3), an the provisions of those sub-sections shall apply accordingly.]

Registered office.

12. All communications and notices to a registered Trade Union ma be addressed to its registered office. Notice of any change in the address o the head office shall be given within fourteen days of such change to th Registrar in writing, and the changed address shall be recorded in the registe referred to in section 8.

Incorporation of registered Trade Unions.

13. Every registered Trade Union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal with power to acquire and hold both moveable and immoveable property and to contract, and shall by the said name sue and be sued.

Certain Acts not to apply to registered Trade Unions.

14. The following Acts, namely :—

(a) The Societies Registration Act, 1860,

(b) The Co-operative Societies Act, 1912,

(c) The Provident Insurance Societies Act, 1912,

(d) The Indian Life Assurance Companies Act, 1912, and

(e) The Indian Companies Act, 1913,

shall not apply to any registered Trade Union, and the registration of any such Trade Union under any such Act shall be void.

CHAPTER III.

Rights and Liabilities of registered Trade Unions.

Objects on which general funds may be spent.

15. The general funds of a registered Trade Union shall not be spent on any other objects than the following, namely :—

(a) the payment of salaries, allowances and expenses to officers of the Trade Union ;

(b) the payment of expenses for the administration of the Trade Union, including audit of the accounts of the general funds of the Trade Union ;

(c) the prosecution or defence of any legal proceeding to which the Trade Union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the Trade Union as such or any rights arising out of the relations of any member with his employer or with a person whom the member employs ;

(*Chapter III.—Rights and Liabilities of registered Trade Unions*)

(*d*) the conduct of trade disputes on behalf of the Trade Union or any member thereof,

(*e*) the compensation of members for loss arising out of trade disputes;

(*f*) allowances to members or their dependants on account of death, old age, sickness, accidents or unemployment of such members,

(*g*) the issue of, or the undertaking of liability under, policies of assurance on the lives of members, or under policies insuring members against sickness, accident or unemployment,

(*h*) the provision of educational, social or religious benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members) or for the dependants of members,

(*i*) the upkeep of a periodical published mainly for the purpose of discussing questions affecting employers or workmen as such,

(*j*) the payment, in furtherance of any of the objects on which the general funds of the Trade Union may be spent, of contributions to any cause intended to benefit workmen in general, provided that the expenditure in respect of such contributions in any financial year shall not at any time during that year be in excess of one fourth of the combined total of the gross income which has up to that time accrued to the general funds of the Trade Union during that year and of the balance at the credit of those funds at the commencement of that year, and

(*k*) subject to any conditions contained in the notification, any other object notified by the [1][appropriate Government] in the [2][Official Gazette]

16. (*1*) A registered Trade Union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects specified in sub section (*2*)

Constitution of a separate fund for political purposes

(*2*) The objects referred to in sub section (*1*) are —

(*a*) the payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of any legislative body constituted under the Government of India Act [3][or the Government of India Act, 1935] or of any local authority, before, during, or after the election in connection with his candidature or election, or

(*b*) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate; or

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[1] Subs. by the A O for "G G in C"
[2] Subs by the A O for "Gazette of India".
[3] Ins by the A O

(c) the maintenance of any person who is a member of any legislative body constituted under the Government of India Act [1][or the Government of India Act, 1935] or of any local authority; or 26 Geo. 5, c. 2.

(d) the registration of electors or the selection of a candidate for any legislative body constituted under the Government of India Act [1][or the Government of India Act, 1935] or for any local authority; or 26 Geo. 5, c. 2.

(e) the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind.

(3) No member shall be compelled to contribute to the fund constituted under sub-section (1); and a member who does not contribute to the said fund shall not be excluded from any benefits of the Trade Union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the Trade Union (except in relation to the control or management of the said fund) by reason of his not contributing to the said fund; and contribution to the said fund shall not be made a condition for admission to the Trade Union.

Criminal conspiracy in trade disputes.

17. No officer or member of a registered Trade Union shall be liable to punishment under sub-section (2) of section 120B of the Indian Penal Code, XLV of 1860. in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15, unless the agreement is an agreement to commit an offence.

Immunity from civil suit in certain cases.

18. (1) No suit or other legal proceeding shall be maintainable in any Civil Court against any registered Trade Union or any officer or member thereof in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the Trade Union is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A registered Trade Union shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any tortious act done in contemplation or furtherance of a trade dispute by an agent of the Trade Union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Trade Union.

Enforceability of agreements.

19. Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Trade Union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade:

Provided that nothing in this section shall enable any Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of a Trade Union shall or shall not sell their goods, transact business, work, employ or be employed.

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[1] Ins. by the A. O.

(Chapter III.—Rights and Liabilities of registered Trade Unions.)

20. The account books of a registered Trade Union and the list of members thereof shall be open to inspection by an officer or member of the Trade Union at such times as may be provided for in the rules of the Trade Union.

Right to inspect books of Trade Union.

21. Any person who has attained the age of fifteen years may be a member of a registered Trade Union subject to any rules of the Trade Union to the contrary, and may, subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules:

Rights of minors to membership of Trade Unions.

Provided that no person who has not attained the age of eighteen years shall be an officer of any such Trade Union.

22. Not less than one half of the total number of the officers of every registered Trade Union shall be persons actually engaged or employed in an industry with which the Trade Union is connected:

Proportion of officers to be connected with the industry.

Provided that the [1][appropriate Government] may, by special or general order, declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order.

23. Any registered Trade Union may, with the consent of not less than two-thirds of the total number of its members and subject to the provisions of section 25, change its name.

Change of name.

24. Any two or more registered Trade Unions may become amalgamated together as one Trade Union with or without dissolution or division of the funds of such Trade Unions or either or any of them, provided that the votes of at least one-half of the members of each or every such Trade Union entitled to vote are recorded, and that at least sixty per cent. of the votes recorded are in favour of the proposal.

Amalgamation of Trade Unions.

25. (*1*) Notice in writing of every change of name and of every amalgamation, signed, in the case of a change of name, by the Secretary and by seven members of the Trade Union changing its name, and, in the case of an amalgamation, by the Secretary and by seven members of each and every Trade Union which is a party thereto, shall be sent to the Registrar, and where the head office of the amalgamated Trade Union is situated in a different Province, to the Registrar of such Province.

Notice of change of name or amalgamation.

(*2*) If the proposed name is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall refuse to register the change of name.

(*3*) Save as provided in sub-section (*2*), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name in the register referred to in section 8, and the change of name shall have effect from the date of such registration.

(*4*) The Registrar of the Province in which the head office of the amalgamated Trade Union is situated shall, if he is satisfied that the provisions of this Act in respect of amalgamation have been complied with and that the

[1] Subs. by the A. O. for "L. G."

Trade Union formed thereby is entitled to registration under section 6, register the Trade Union in the manner provided in section 8, and the amalgamation shall have effect from the date of such registration.

Effects of change of name and of amalgamation.

26. (*1*) The change in the name of a registered Trade Union shall not affect any rights or obligations of the Trade Union or render defective any legal proceeding by or against the Trade Union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

(*2*) An amalgamation of two or more registered Trade Unions shall not prejudice any right of any of such Trade Unions or any right of a creditor of any of them.

Dissolution.

27. (*1*) When a registered Trade Union is dissolved, notice of the dissolution signed by seven members and by the Secretary of the Trade Union shall, within fourteen days of the dissolution, be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade Union, and the dissolution shall have effect from the date of such registration.

(*2*) Where the dissolution of a registered Trade Union has been registered and the rules of the Trade Union do not provide for the distribution of funds of the Trade Union on dissolution, the Registrar shall divide the funds amongst the members in such manner as may be prescribed.

Returns.

28. (*1*) There shall be sent annually to the Registrar, on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered Trade Union during the year ending on the 31st day of March next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of March. The statement shall be prepared in such form and shall comprise such particulars as may be prescribed.

(*2*) Together with the general statement there shall be sent to the Registrar a statement showing all changes of officers made by the Trade Union during the year to which the general statement refers, together also with a copy of the rules of the Trade Union corrected up to the date of the despatch thereof to the Registrar.

(*3*) A copy of every alteration made in the rules of a registered Trade Union shall be sent to the Registrar within fifteen days of the making of the alteration.

CHAPTER IV.

Regulations.

Power to make regulations.

29. (*1*) [1]* * * The [2][appropriate Government] may make regulations for the purpose of carrying into effect the provisions of this Act.

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[1] The words "Subject to the control of the G. G. in C." rep. by the A. O.

[2] Subs. by the A. O. for "L. G."

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the manner in which Trade Unions and the rules of Trade Unions shall be registered and the fees payable on registration;
(b) the transfer of registration in the case of any registered Trade Union which has changed its head office from one Province to another;
(c) the manner in which, and the qualifications of persons by whom, the accounts of registered Trade Unions or of any class of such Unions shall be audited;
(d) the conditions subject to which inspection of documents kept by Registrars shall be allowed and the fees which shall be chargeable in respect of such inspections; and
(e) any matter which is to be or may be prescribed.

30. (1) The power to make regulations conferred by section 29 is subject to the condition of the regulations being made after previous publication. Publication of regulations.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897, as that after which a draft of regulations proposed to be made will be taken into consideration shall not be less than three months from the date on which the draft of the proposed regulations was published for general information.

1897.

(3) Regulations so made shall be published in the [1][Official Gazette], and on such publication shall have effect as if enacted in this Act.

CHAPTER V.

Penalties and Procedure.

31. (1) If default is made on the part of any registered Trade Union in giving any notice or sending any statement or other document as required by or under any provision of this Act, every officer or other person bound by the rules of the Trade Union to give or send the same, or, if there is no such officer or person, every member of the executive of the Trade Union, shall be punishable with fine which may extend to five rupees and, in the case of a continuing default, with an additional fine which may extend to five rupees for each week after the first during which the default continues: Failure to submit returns.

Provided that the aggregate fine shall not exceed fifty rupees.

(2) Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 28, or in

[1] Subs. by the A. O. for "local official Gazette".

or from any copy of rules or of alterations of rules sent to the Registrar under that section, shall be punishable with fine which may extend to five hundred rupees.

Supplying false information regarding Trade Unions.

32. Any person who, with intent to deceive, gives to any member of a registered Trade Union or to any person intending or applying to become a member of such Trade Union any document purporting to be a copy of the rules of the Trade Union or of any alterations to the same which he knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the like intent, gives a copy of any rules of an unregistered Trade Union to any person on the pretence that such rules are the rules of a registered Trade Union, shall be punishable with fine which may extend to two hundred rupees.

Cognizance of offences.

33. (*1*) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(*2*) No Court shall take cognizance of any offence under this Act, unless complaint thereof has been made by, or with the previous sanction of, the Registrar or, in the case of an offence under section 32, by the person to whom the copy was given, within six months of the date on which the offence is alleged to have been committed.

THE COTTON INDUSTRY (STATISTICS) ACT, 1926.

ACT NO. XX OF 1926.[1]

[*25th March, 1926.*]

An Act to provide for the regular submission of returns of quantities of cotton goods manufactured and cotton yarn spun in British India.

WHEREAS it is expedient, notwithstanding the repeal of the Cotton Duties Act, 1896, to provide for the regular submission of returns of the quantities of cotton goods manufactured and cotton yarn spun in British India; It is hereby enacted as follows :— II of 1896.

Short title and extent.

1. (*1*) This Act may be called the Cotton Industry (Statistics) Act, 1926.

(*2*) It extends to the whole of British India.

Definitions.

2. For the purposes of this Act, unless there is anything repugnant in the subject or context,—

(*a*) "cotton goods" or "goods" includes all tissues and other articles (except yarn and thread) woven, knitted or otherwise manufactured wholly or partly from cotton yarn;

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 100.

(b) "cotton yarn" or "yarn" means yarn wholly or partly composed of cotton fibres,

(c) "mill" means any building or place where cotton goods are woven, knitted or otherwise manufactured, or where cotton yarn is spun, by machinery moved otherwise than by manual labour, and includes every part of such building or place,

(d) "owner", in relation to any mill, includes the managing agent or other principal officer of the mill, and

(e) "prescribed" means prescribed by rules made under this Act

Delivery of monthly returns of goods and yarn manufactured by mill owners.

3. (1) The owner of every mill shall each month prepare and deliver, or cause to be prepared and delivered, to the prescribed officer a return of all cotton goods manufactured and all cotton yarn spun in the mill during the preceding month by machinery moved otherwise than by manual labour, and shall subscribe a declaration of the truth of the return at the foot thereof

(2) Save as may be otherwise prescribed, every such return shall state, in respect of each description of goods and of yarn, the quantity manufactured during the period to which the return relates, and shall contain such further information, and be in such form and be subject to such conditions as to verification and otherwise, as may be prescribed

(3) Every such return shall be delivered to the prescribed officer or posted to his address within seven days after the end of the month to which it relates

Power to inspect mills and take copies of records.

4. (1) Any officer authorised by the [1][Provincial Government] by order in writing in this behalf shall have free access at all reasonable times during working hours to any mill and may at any time, with or without notice to the owner, examine and take copies of, or extracts from, the records of the mill for the purpose of testing the accuracy of any return made under section 3, or of informing himself as to any particulars regarding which information is required for the purposes of this Act or any rules made thereunder

Provided that no officer not especially empowered by the [1][Provincial Government] in this behalf shall be entitled to inspect any record containing the description or *formulæ of any trade process*

(2) All copies and extracts and all information acquired by any officer in the inspection of any mill under this section shall be treated as strictly confidential

Publication of returns.

5. The [2][Provincial Government] shall, from the returns delivered under section 3, cause to be compiled and published, in such form as [3][it] may direct, statements showing for each month the total quantities of goods manufactured and of yarn spun in mills in [4][the Province]

Power to make rules.

6. (1) The [2][Provincial Government] may, by notification in the [5][Official Gazette], make rules[6] consistent with this Act to carry out the purposes thereof

[1] Subs. by the A O for ' L. G '
[2] Subs. by the A O for "G G in C '
[3] Subs. by the A. O for 'he
[4] Subs. by the A O for " British India
[5] Subs. by the A O for " Gazette of India '.
[6] For such rules, see Gazette of India, 19-6, Pt. I, p. 463.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the form of any return required under this Act, the particulars to be contained therein, and the manner in which the return shall be verified ;

(b) the nature of the records to be maintained by the owners of mills ;

(c) the powers and duties, in regard to the inspection of mills under this Act, of the officers authorised to make such inspections ; and

(d) any other matter which may be or is to be prescribed.

Penalties.

7. (1) Any person who—

(a) knowingly falsifies any record of manufacture or production kept in a mill, or

(b) being required to deliver a return under section 3, knowingly delivers a false return, or

(c) omits to make any return required by section 3, or refuses to sign or complete the same, or

(d) knowingly does any act, not otherwise punishable under this Act, in contravention of the provisions of any rule made under this Act,

shall be punishable with fine which may extend to five hundred rupees.

(2) Any person who discloses any particulars or other information acquired by him in the inspection of any mill under this Act shall be punishable with fine which may extend to one thousand rupees :

Provided that nothing in this sub-section shall apply to the disclosure—

(a) of any such particulars or information for the purpose of a prosecution under section 193 of the Indian Penal Code or under this Act, in respect of any return kept or record made for the purposes of this Act, or XLV of 1860.

(b) of any such particulars or information to any person acting in the execution of any duty imposed upon him by this Act, where the disclosure is necessary for the purposes of this Act.

ption.

8. The [1][Provincial Government] may, by notification in the [2][Official Gazette], exempt from the operation of this Act or of any specified provision thereof any mill or class of mills, or any goods or class of goods, specified in the notification.

Protection for acts done under this Act.

9. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "Gazette of India".

THE LEGAL PRACTITIONERS (FEES) ACT, 1926.

ACT No. XXI OF 1926.[1]

[*25th March, 1926.*]

An Act to define in certain cases the rights of legal practitioners to sue for their fees and their liabilities to be sued in respect of negligence in the discharge of their professional duties.

WHEREAS it is expedient to define in certain cases the rights of legal practitioners to sue for their fees and their liabilities to be sued in respect of negligence in the discharge of their professional duties, It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Legal Practitioners (Fees) Act, 1926.

(*2*) It extends to the whole of British India

(*3*) It shall come into force on such date[2] as the [3][Central Government] may, by notification in the [4][Official Gazette], appoint.

Interpretation.

2. For the purposes of this Act, unless there is anything repugnant in the subject or context,—

(*a*) "legal practitioner" means a legal practitioner as defined in section 3 of the Legal Practitioners Act, 1879, and

(*b*) a legal practitioner shall not be deemed to "act" if he only pleads, or to "agree to act" if he agrees only to plead.

Agreement for engagement of legal practitioner.

3. Any legal practitioner who acts or agrees to act for any person may by private agreement settle with such person the terms of his engagement and the fee to be paid for his professional services.

Right of legal practitioner to sue for fees.

4. Any such legal practitioner shall be entitled to institute and maintain legal proceedings for the recovery of any fee due to him under the agreement, or, if no such fee has been settled, a fee computed in accordance with the law for the time being in force in regard to the computation of the costs to be awarded to a party in respect of the fee of his legal practitioner.

Liability of legal practitioner to be sued.

5. No legal practitioner who has acted or agreed to act shall, by reason only of being a legal practitioner, be exempt from liability to be sued in respect of any loss or injury due to any negligence in the conduct of his professional duties.

6. [*Repeals*] *Rep. by the Repealing Act, 1927* (*XII of 1927*), *s. 2 and Sch.*

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt V, p. 19.

[2] 1st June, 1926, *see* Gazette of India, 1926, Pt. I, p. 514.

[3] Subs. by the A. O. for "G. G. in C."

[4] Subs. by the A. O. for "Gazette of India".

THE DELHI JOINT WATER BOARD ACT, 1926.

CONTENTS.

Act No XXIII of 1926 [1]

[*25th March, 1926*]

An Act to provide for the maintenance of the works established to supply drinking water in bulk for the urban area of the city of Delhi, and for that purpose to constitute a Joint Water Board to undertake such maintenance

Whereas it is expedient to provide for the maintenance of the works established to supply drinking water in bulk for the urban area of the city of Delhi, and for that purpose to constitute a Joint Water Board to undertake such maintenance, It is hereby enacted as follows —

Preliminary

1. (*1*) This Act may be called the Delhi Joint Water Board Act, 1926 Short title and commencement.

(2) It shall come into force on the 1st day of April, 1926

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "the Board" means the Delhi Joint Water Board constituted by this Act,

(*b*) "Chief Commissioner" means the Chief Commissioner of Delhi, and

(*c*) "constituent body" means any one of the following bodies, namely —

(i) the Delhi Municipal Committee,

(ii) the Delhi Civil Lines Notified Area Committee

(iii) the [2][Military Engineer Services, Delhi (New) Cantonments], and

(iv) the Imperial Delhi Municipal Committee, or such other authority as is for the time being entrusted with the distribution of water in the New Capital area

Constitution, Property and Liabilities of the Board

3. (*1*) As soon as possible after the commencement of this Act, there shall be constituted a Joint Water Board for Delhi consisting of nine members, of whom— Constitution of the Board.

(*a*) one shall be the Chief Commissioner,

(*b*) four shall be members of the Delhi Municipal Committee elected by that Committee,

(*c*) one shall be a member of the Delhi Civil Lines Notified Area Committee elected by that Committee,

[1] For Statement of Objects and Reasons see Gazette of India, 1926, Pt. V, p 73

[2] Subs. by the Repealing and Amending Act, 1937 (20 of 1937), s. 2 and Sch. I, for "Cantonment Authority Delhi New Cantonments

(*Constitution, Property and Liabilities of the Board.*)

(*d*) one shall be a person nominated by the Officer Commanding the Delhi Independent Brigade ; and

(*e*) two shall be persons nominated by the [1][Central Government].

(*2*) If any constituent body fails to elect within three months from the commencement of this Act any member who is to be elected by it under sub-section (*1*), or to fill within three months any vacancy in the office of a member so elected, the [2][Provincial Government] may nominate to the vacancy any member of that constituent body and the person so nominated shall hold office until the constituent body concerned elects another member in his place.

Incorporation of the Board.

4. (*1*) The Board constituted under section 3 shall be a body corporate by the name of the Delhi Joint Water Board, having perpetual succession and a common seal with power to acquire and hold property, both moveable and immoveable, and to contract, and shall by the said name sue and be sued.

(*2*) The Chief Commissioner shall be *ex-officio* President of the Board.

(*3*) The Secretary of the Board shall be a person, not being a member of the Board, appointed by the Board.

Property of the Board.

5. Upon the constitution of the Board there shall be vested in the Board the works and other property specified in Parts A and B of Schedule I which were formerly the property of the Delhi Municipal Committee and of the Government, respectively.

Power to construct additional works.

6. If the Board is of opinion that the works and other property for the time being vested in it are inadequate for the purpose of the efficient supply of water under this Act, it may borrow money from the [1][Central Government] or, with the sanction of the [1][Central Government] and on such terms as [3][it] may approve, from any constituent body for the purpose of constructing additional works or of acquiring additional property, and the loan so raised shall be expended in the construction of such works or the acquisition of such property, and any works so constructed or property so acquired shall vest in the Board.

Employment of Government agency for repairs, etc.

7. The [1][Central Government] may direct that any specified work, repair, renewal or replacement which is to be undertaken by or for the Board shall be carried out on behalf of the Board by the [1][Central Government], and the Board shall pay the charges therefor at the rates and subject to the terms for the time being applicable in the case of works constructed by the [1][Central Government] on behalf of a local authority.

Renewal and replacement fund.

8. (*1*) The Board shall, for the purpose of the renewal and replacement of the works and property vested in it, maintain a fund in such manner and subject to such conditions as the [4][Central Government] may by rules prescribe.

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[1] Subs. by the A. O. for " G. G. in C."
[2] Subs. by the A. O. for " Chief Commissioner".
[3] Subs. by the A. O. for " he".
[4] Subs. by the A. O. for " Auditor General ".

(Constitution, Property and Liabilities of the Board. Supply of water and payment therefor.)

(2) Without prejudice to the generality of the power of the [1][Central Government] to make rules under sub-section (1), such rules shall provide for the following matters, namely :--

(a) the amount of the annual payments to be made into the fund,

(b) the manner in which the balances of the fund shall be invested, and

(c) the manner in which and the objects upon which the balances and the interest accruing thereon may be expended.

Debt of the Board to the Municipal Committee, Delhi.

9. In consideration of the transfer to the Board of the works and other property of the Delhi Municipal Committee, specified in Part A of Schedule I, the Board shall be deemed to have taken from the Committee a loan of five lakhs of rupees bearing interest at the rate of six rupees per cent per annum, and such loan shall be repaid to the Committee in equated half-yearly instalments of principal and interest over a period of fifty years or such shorter period, if any, not being less than thirty years, as the Committee may, before the payment of the first half yearly instalment becomes due, elect

Debt of the Board to the Central Government

10. (1) In consideration of the transfer to the Board of the works and other property of the Government specified in Part B of Schedule I, the Board shall be deemed to have taken from the [2][Central Government] a loan of nineteen lakhs of rupees or of a sum equal to one half of the capital cost of the works and property specified in that Part, whichever sum is less, and such loan shall bear interest at the rate of six rupees per cent per annum and shall be repaid to the [2][Central Government] in equated half yearly instalments of principal and interest over a period of fifty years

(2) For the purposes of this section, the capital cost of the works and other property specified in Part B of Schedule I shall be the amount recorded in the accounts of the [2][Central Government] as the capital cost thereof, [3]* * * * * *

Supply of water and payment therefor.

Supply of water

11. The Board shall be bound to supply to each constituent body, at the place or places specified in respect of such body in Schedule II or at such other place or places as may be agreed between the Board and such body, water in bulk up to the amount demanded by such body or, if the total demand of the constituent bodies is in excess of the available supply, up to such proportion in the case of each constituent body as the Board may determine :

Provided that, if the Delhi Municipal Committee by notice in writing to the Board so requires, the amount supplied to the Committee shall not in any one day during such period as may be specified in the notice be less than five-sevenths of the total supply available during that day or seven and a half million gallons, whichever amount is less.

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[1] Subs. by the A O for "Auditor General"

[2] Subs. by the A. O for "G G in C."

[3] The words "and, if any question arises as to the capital cost of any such works or property, it shall be referred to the Auditor General, whose decision shall be final" rep. by the A. O

(Supply of water and payment therefor.)

Constituent bodies to pay actual cost of supply of water.

12. (*1*) Each constituent body shall pay for the water supplied to it the actual cost of supplying such water at a rate in respect of each thousand gallons of water supplied (hereinafter referred to as the final issue rate) calculated in the manner prescribed in this section:

Provided that the Delhi Municipal Committee shall be required to pay, in respect of each financial year, for the actual water supplied to it or for one thousand four hundred and sixty million gallons of water, whichever amount is greater, at the final issue rate or at the rate of three annas per thousand gallons, whichever is less, and any amount by which the price at the final issue rate of the supply actually taken by the Committee exceeds the sum so payable by the Committee shall be payable to the Board by the [1][Central Government].

(*2*) The final issue rate shall be calculated for each financial year after the accounts of the year have been closed by dividing the amount of the total expenditure of the Board during the year by the number of thousand gallons supplied by the Board during that year to the constituent bodies.

(*3*) For the purposes of sub-section (*2*) there shall be taken into account as expenditure of the Board—

(*a*) all establishment charges, including all expenditure upon repairs and maintenance not debitable to the fund established under section 8;

(*b*) repayments of principal and payments of interest in respect of any loan taken by the Board under section 6;

(*c*) the equated instalments payable to the Delhi Municipal Committee and the [1][Central Government] under sections 9 and 10; and

(*d*) payments into the fund established under section 8 after deduction of such income, if any, from interest on the balances of the fund as is, under rules made [2]* * * * under that section, to be deemed to be current revenue of the Board.

Provisional collecting rate.

13. (*1*) Pending the calculation of the final issue rate for any financial year, payments for water supplied during that year shall be made provisionally at an estimated rate (hereinafter referred to as the collecting rate).

(*2*) The collecting rate shall be calculated at the time of the framing of the budget estimates for the financial year by dividing the sum of the amount of the estimated expenditure of the Board in that year and of an addition of five per cent. of that amount by the number of thousand gallons of water estimated as likely to be supplied during that year.

(*3*) If any difference of opinion arises as to the supply of water to be estimated for the purposes of the ascertainment of the collecting rate the decision of the President of the Board thereon shall be final.

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[1] Subs. by the A. O. for "G. G. in C."

[2] The words "by the Auditor General" rep. by the A. O.

(Supply of water and payment therefor.)

(4) Each constituent body shall pay on demand after the close of each quarter of each financial year the cost of the water supplied to it in that quarter calculated at the collecting rate:

Provided that in the case of the water supplied to the Delhi Municipal Committee, if the collecting rate exceeds the rate of three annas per thousand gallons, the difference between the amount payable at that rate and the amount payable at the collecting rate shall be payable to the Board by the [1][Central Government].

14. (1) If the final issue rate for any financial year exceeds the collecting rate determined for that year, the balance due shall be recovered from each constituent body, or, in the case of an excess over the three annas rate payable by the Delhi Municipal Committee, from the [1][Central Government]. **Final settlement of accounts.**

(2) If the final issue rate is less than the collecting rate, the excess collection shall be refunded to the constituent bodies from whom it was collected or, in the case of any amount recovered in excess from the [1][Central Government] under sub-section (4) of section 13, to the [1][Central Government].

(3) If the total amount of water supplied during any financial year to the Delhi Municipal Committee is found to have been less than the minimum prescribed in sub-section (1) of section 12, the payment for the deficiency calculated at the final issue rate or at the rate of three annas per thousand gallons, whichever is less, shall be recovered from the Delhi Municipal Committee.

(4) Where any amount has been recovered under sub-section (3) from the Delhi Municipal Committee, then if any recovery has been made from the [1][Central Government] under sub-section (4) of section 13, the amount so recovered from the Committee or such portion thereof as is equal to the amount recovered from the [1][Central Government] shall be refunded to [2][the Central Government].

[3][**15.** (1) If any dispute arises between the Board and any constituent body as to the liability of the constituent body to pay any sum demanded by the Board or as to the right of the constituent body to any refund, or as to the amount of any refund, from the Board, the constituent body may require the Board to refer the matter in dispute to the Central Government, and the decision of the Central Government thereon shall be final: **Dispute as to liability, for payment to or by the Board.**

Provided that, where the dispute relates to the liability of a constituent body to make any payment to the Board, the payment shall be made to the Board pending the decision of the Central Government.

(2) In making any such reference the Board shall furnish to the Central Government and the constituent body concerned a full statement of the

[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "him".
[3] Subs. by the A. O. for the original section.

grounds of its claim, and the Central Government shall consider that statement, together with any like statement received from the constituent body within six weeks of the date of the reference.]

Summary recovery of sums due from constituent bodies.

16. If any constituent body does not, within one month of the receipt of a demand for any sum claimed by the Board, pay such sum, the [1][Provincial Government] may, on a requisition from the Board in this behalf,—

(*a*) if the balances of the constituent body are kept in the Government Treasury, order the officer in charge of the Treasury to reduce the balance at the credit of that body by the amount of the sum due and pay that amount to the Board, or

(*b*) in any other case, deduct the amount of the sum due from any contribution or sum payable by him on behalf of the Government to the constituent body and pay the amount so deducted to the Board.

Budget and Accounts.

Presentation of budget estimates.

17. The budget estimates of the Board for each financial year shall be presented to the Board before the first day of March in the preceding financial year by the President, and the budget as finally passed shall be subject to the approval of the [2][Central Government], [3][which] shall have power to reduce any item in the estimates of expenditure and to restore any provision which [4][it] considers to be essential for the safe and efficient conduct of the business of the Board.

Custody and disbursement of monies.

18. (*1*) All monies received by the Board shall be credited into a separate account maintained for the purpose in the Government Treasury or, if the Board so elects, into a banking account kept with the Imperial Bank of India or any other bank approved by the [5][Central Government] in this behalf.

(*2*) All funds for disbursement shall be drawn by means of cheques which shall be signed by the President or by such other member of the Board as the President may, with the approval of the Board, authorise in this behalf.

Provisions for audit.

19. The accounts of the Board shall be maintained in such form and shall be subject to such audit by such agency and on such terms and conditions as the [5][Central Government] may prescribe.

Supply of copies of budget and accounts.

20. The Board shall furnish each financial year to the [1][Provincial Government] and to each constituent body a copy of its budget and of the accounts of the preceding financial year.

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[1] Subs. by the A. O. for "Chief Commissioner".
[2] Subs. by the A. O. for "G. G. in C."
[3] Subs. by the A. O. for "who".
[4] Subs. by the A. O. for "he".
[5] Subs. by the A. O. for "Auditor General".

Provident Fund.

21. (*1*) The Board shall establish and maintain a Provident Fund for such of its officers and servants as are in receipt of a monthly pay exceeding twenty rupees. **Provident Fund.**

(*2*) The rules providing for the establishment and maintenance of the Provident Fund established for its officers and servants by the Delhi Municipal Committee shall, with such modifications only as may be necessary to adapt them for the purpose, apply for the purpose of the establishment and maintenance of the Provident Fund referred to in sub-section (*1*) until such time as the Board may, with the sanction of the [1][Provincial Government], make other rules in this behalf.

(*3*) Contributions made by the Board to the Provident Fund shall be deemed to be establishment charges for the purpose of clause (*a*) of sub-section (*3*) of section 12.

Rights of user in property.

22. (*1*) The Board may place and maintain aqueducts, conduits and lines of mains or pipes over, under, along or across any immoveable property without acquiring the same, and may at any time, for the purpose of examining, repairing, altering or removing any aqueduct, conduit or line of mains or pipes, enter on any property over, under, along or across which the aqueduct, conduit or line of mains or pipes has been placed: **Rights of user of property for aqueducts, lines, etc.**

Provided that the Board shall not acquire any right other than a right of user in the property over, under, along or across which any aqueduct, conduit or line of mains or pipes is placed.

(*2*) The powers conferred by sub-section (*1*) shall not be exercisable in respect of any property vested in or under the control or management [2][of the Crown] or any local authority or railway administration, save with the permission of the [3][Central Government] or the [4][Provincial Government] or the local authority or railway administration, as the case may be, and in accordance with any rules made in this behalf under this Act:

Provided that the Board may, without such permission, repair, renew or amend any existing works of which the character or position is not to be altered if such repair, renewal or amendment is urgently necessary in order to maintain the supply of water without interruption, or is such that delay would be dangerous to human life or property.

23. In the exercise of the powers conferred upon it by section 22, the Board shall cause as little damage and inconvenience as may be possible, and shall make full compensation for any damage or inconvenience caused by it. **Compensation for damage.**

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[1] Subs. by the A. O. for "Chief Commissioner".
[2] Subs. by the A. O. for "of the Govt."
[3] Subs. by the A. O. for "G. G. in C."
[4] Subs. by the A. O. for "L. G."

(*Meters. Penalties.*)

Meters.

Supply of meters.

24. (*1*) For the purpose of measuring and recording the amount of water supplied to each constituent body, the Board shall affix meters at the points of junction between the communication pipes of the constituent body and the mains or pipes belonging to the Board, and the cost of such meters shall be borne by the Board.

(*2*) It shall be presumed, until the contrary is proved, that the quantity of water supplied through any connection is the quantity indicated by the meter affixed to that connection.

Testing of meters.

25. (*1*) If any constituent body desires to have any meter tested, it may make an application in this behalf accompanied by a fee of two hundred and fifty rupees, and, on receipt of such application and fee, the Board shall forthwith cause the meter to be tested at a time and place of which due notice shall have been given to the constituent body.

(*2*) If the meter is found on being tested to be incorrect, the Board shall be bound to replace or repair the same and to refund the fee paid under sub-section (*1*) together with such sum, if any, as is proved to the satisfaction of the Board to have been paid in excess by the constituent body by reason of the incorrectness of the meter.

Penalties.

Penalties.

26. Any person who—

(*a*) wilfully obstructs any person acting under the authority of the Board in setting out the line of any works, or pulls up or removes any pillar, post or stake fixed in the ground for the purpose of setting out the lines of such works, or defaces or destroys any works made for the same purpose, or

(*b*) wilfully or negligently breaks, injures or opens any lock, cock, valve, pipe or other water work belonging to the Board, or

(*c*) unlawfully obstructs the flow of, or flushes, draws off, diverts or takes water from, any water work belonging to the Board, or any water or stream by which any such water work is supplied, or

(*d*) obstructs any officer or servant of the Board in the discharge of his duties under this Act, or refuses or wilfully neglects to furnish him with the means necessary for making any entry, inspection, examination, or inquiry thereunder in relation to any water work, or

(*e*) bathes in, at or upon any water work, or washes, throws or causes to enter therein any animals, or throws any rubbish, dirt, filth or other offensive matter into any water work, or washes or cleans therein any cloth, wool or leather or the skin of any animal, or causes the water of any sink, sewer or drain or of any steam engine or boiler or any other dirty water to turn

(*Penalties Rules and bye laws*)

or be brought into any water work, or does any other act whereby the water in any water work is fouled or likely to be fouled,

shall be punishable with fine which may extend to two hundred and fifty rupees

Rules and bye laws

27. (*1*) The [1][Central Government] may, by notification in the [2][Official Gazette], make rules[3] consistent with this Act for the purpose of carrying into effect the provisions thereof

Power of the Central Government to make rules

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely —

(*a*) the term of office of members of the Board,

(*b*) the circumstances in which and the authority by which any member may be removed,

(*c*) the minimum number of meetings of the Board to be held during any year, and

(*d*) the conditions subject to which the Board may exercise the powers conferred by section 22 in respect of property [4][of the Crown] or of a local authority or railway administration

28. The Board may, with the sanction of the [5][Provincial Government], make bye laws, consistent with this Act and any rules made thereunder, to provide for all or any of the following matters, namely —

Power to make bye-laws

(*a*) the manner in which business shall be conducted at meetings of the Board,

(*b*) the maintenance by the Board of a record of all business transacted,

(*c*) the definition of the powers of the Board to enter into contracts which shall be binding on the Board, and the manner in which such contracts shall be executed,

(*d*) the definition of the powers of the Board in respect of the appointment, promotion and dismissal of officers and servants of the Board,

(*e*) the grant of pay and leave to officers and servants of the Board, and the payment of leave allowances to such officers and servants, and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted,

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[1] Subs by the A O for G G in C

[2] Subs by the A O for Gazette of India

[3] For such rules, see Notification No Mis. 103, dated 7th July 1927, Gazette of India, 1927, Pt. I, p 708

[4] Subs. by the A O for of the Govt

[5] Subs by the A O for Chief Commissioner

(*f*) the regulation of the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Board;

(*g*) the circumstances in which security may be demanded from officers and servants of the Board and the amount and nature of such security in each case;

(*h*) the preparation of supplementary estimates of expenditure not included in the budget estimates and the manner in which such estimates shall be presented to the Board and sanctioned;

(*i*) the general regulation of all matters incidental to the Provident Fund and the investment thereof; and

(*j*) any other matter for which provision is required for the efficient discharge of the duties or business of the Board.

SCHEDULE I.

(*See sections 5, 9 and 10.*)

LIST OF WORKS AND PROPERTY.

PART A.

LIST OF WORKS TAKEN OVER FROM THE DELHI MUNICIPAL COMMITTEE.

1. *At Chandrawal*—

(*a*) 2 Settling tanks, each 160′ × 63′.

(*b*) 8 Settling tanks, each 163′ × 60′.

(*c*) 8 Filter beds, each 113′ × 80′.

(The above tanks have been converted into settling tanks of greater depth by raising the walls and making certain other alterations.)

(*d*) 6 Filter beds, each 170′ × 100′ (one of which has been converted into two settling tanks for the Paterson filters).

(*e*) The pipe connections to and from the above settling tanks and filter beds.

(*f*) Pumping Station—

with 80′ brick chimney and coal bins and tramway and including the following plant—

3 Babcock and Wilcox Boilers Register Nos. D.-65, D.-66 and D.-94,

2 *Green's Economisers*,

3 Donkey Pumps,

3 Pumping Engines Nos. 2428, 2429 and 2907,

2 Travelling cranes.

(Schedule I.)

(*g*) Workshop equipped with—
1 Lathe 20′ bed,
1 Lathe 12′ bed,
1 Lathe 6′ bed,
1 Shaping machine,
1 Drilling machine,
1 Slotting machine
1 Power hammer
2 Hearths,
1 Saw Bench,
1 Vice Bench with 7 vices,
1 Grindstone,
1 Double Emery wheel,
1 Blower,
1 Steam engine with necessary shafting for running the workshop,
5 Almirahs for keeping stores,
Carpenters shop.

(*h*) Superintendent's Bungalow consisting of 4 main rooms and with 14 servants and staff quarters and the necessary latrines, etc

(*i*) Office and Stores, with weighbridge.

(*j*) Clear water Reservoir, 2 Nos, total capacity 1,200,000 gallons with pipe connections.

2. *From Chandrawal to Hindu Rao*—
1 rising main 18″ diameter
1 rising main 20″ diameter.
1 18″ venturi meter.

3. *At Hindu Rao*—
Reservoir, capacity 2½ million gallons,
Byepass and other pipes at Reservoir.
Valve House including 24″ outlet from the Reservoir and 24″, 16″ and 12″ delivery mains at valve house.
Chowkidars' Quarters, 6 Nos.

PART B.

LIST OF WORKS TAKEN OVER FROM THE GOVERNMENT.

1. *At Wazirabad*—
(*a*) River training works.
(*b*) River Intake.

(*Schedule I.*)

(*c*) Pumping Station with 120′ steel chimney, coal store and weigh-bridge and including the following plant—

2 Babcock and Wilcox Boilers, Register No. D.-152 D.-153 with stoker engine, feed pumps and Economiser complete,

3 Engine and centrifugal pumps, Nos. 2012, 2013, 2014,

Travelling crane.

(*d*) 2 Settling tanks and filters, and clear water reservoir, and pipe connections.

(*e*) 41 Quarters.

2. *From Wazirabad to Chandrawal*—

(*a*) 28″ venturi meters.

(*b*) Rising main 36″ diameter with Nallah crossing.

(*c*) Approach Road and Irish Bridge.

(*d*) 2 Silt tanks near Shah Alam's Mosque.

(*e*) Masonry conduit from silt tanks to Chandrawal.

3. *At Chandrawal*—

(*a*) Alterations to tanks and filters.

(*b*) Paterson Filter Plant with the necessary supply and delivery channels, and including—

Filter and Chemical House.

4 Coagulating Tanks.

2 Tanks by conversion of 170 × 100 filter bed.

15 Paterson Filters.

1 Paterson chloronome and two weighing machines.

2 Motor driven Air Compressors.

(*c*) 1 clear water reservoir, 1 million gallons capacity.

(*d*) Pumping Station with 150′ steel chimney and coal store including the following plant—

2 Babcock and Wilcox Boilers, Register No. D.-154 D.-155 with stoker engine and feed pumps and Economiser complete,

2 Engines and Pumps, Nos. 3056 and 3057,

Travelling crane.

4. *From Chandrawal to Mutiny Memorial*—

(*a*) 24″ venturi meter.

(*b*) Rising main 24″ diameter.

(*c*) 20″ connection from 24″ Government main to 20″ Municipal main.

(*d*) 16″ connection from 24″ main to Hindu Rao Reservoir.

(*e*) Mutiny Memorial Reservoir, capacity 1 million gallons with inlet and outlet pipes at site.

(*f*) Gauging Chamber with necessary control valves and inlet and outlet pipes.

(*Schedule I — Schedule II.*)

5. *From Mutiny Memorial to Talkatora—*

(*a*) 26" diameter steel syphon to Idgah.

(*b*) 26" venturi meter with chowkidar's quarter.

(*c*) Idgah Gauging Chamber with inlet and outlet pipes.

(*d*) Masonry conduit from Idgah to Talkatora.

(*e*) Talkatora Reservoir, capacity 2¼ million gallons with inlet and outlet pipes and byepass.

(*f*) Quarters, 5 units.

6. *From Talkatora to New Cantonments—*

(*a*) Pumping Station with 2 motor driven centrifugal pumps and starters, etc., complete.

(*b*) Rising main 10" diameter.

(*c*) Reservoir capacity 400,000 gallons with inlet and outlet pipes and byepass.

(*d*) Quarters, one unit.

7. Any other work constructed as part of the New Capital Project which the [1][Central Government] may hand over to the Board.

SCHEDULE II.

(*See section 11.*)

PLACES AT WHICH THE BOARD WILL DELIVER A SUPPLY OF WATER IN BULK.

(*a*) Hindu Rao Reservoir, for supply to the Delhi Municipal Committee.

(*b*) Mutiny Memorial Reservoir, for supply to the Delhi Civil Lines Notified Area Committee.

(*c*) Idgah Reservoir, for supply to the Delhi Municipal Committee and for the purposes of the southern and western City Extensions.

(*d*) Talkatora Reservoir, for supply to the Imperial Delhi Municipal Committee.

(*e*) Cantonment Reservoir, for supply to the [2][Military Engineer Services, Delhi (New) Cantonments.]

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[1] Subs. by the A. O. for "G. G. in C."

[2] Subs. by the Repealing and Amending Act, 1937 (20 of 1937), s. 2 and Sch. I, for "Cantonment Authority, Delhi New Cantonments".

THE SIND COURTS (SUPPLEMENTARY) ACT, 1926.

ACT No. XXXIV OF 1926.[1]

[*9th September, 1926.*]

An Act to supplement the Sind Courts Act, 1926.

WHEREAS it is expedient to supplement the Sind Courts Act, 1926, for the purposes hereinafter appearing; It is hereby enacted as follows:— Bom. VII o

Short title and commencement.

1. (*1*) This Act may be called the Sind Courts (Supplementary) Act, 1926.

(*2*) It shall come into force on the commencement[2] of the Sind Courts Act, 1926. Bom. VII o

Amendment of certain enactments.

2. The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Repeals.

3. Part I of the First Schedule and Part I of the Second Schedule to the Sind Courts Act, 1926, are hereby repealed. Bom. VII o

THE SCHEDULE.

ENACTMENTS AMENDED.

(*See section 2.*)

Year.	No.	Short title.	Amendments.
1866 .	XXVII .	The Indian Trustee Act, 1866.	In section 2, in the definition of "High Court", for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted.[3]
" .	XXVIII .	The Trustees' and Mortgagees' Powers Act, 1866.	In section 1, in the definition of "High Court", for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted.[3]
1869 .	IV .	The Indian Divorce Act.	In section 3— (i) in clause (1), after the words, "the Chief Court of Oudh" the words "in Sind—the Chief Court of Sind" shall be inserted; (ii) In clause (2)— (i) the words "in Sind—the Judicial Commissioner of that province" shall be omitted, and (ii) after the words "in Burma" the words "and Sind" shall be inserted.[4]

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p. 144.
[2] The Sind Courts Act, 1926, has not yet been brought into force.
[3] The A. O. having substituted a new definition of "High Court" for the original definition, this amendment is no longer applicable.
[4] Cls. (1) and (2) of s. 3 having been replaced by different clauses by the A. O., these amendments are no longer applicable.

(*Schedule.*)

THE SCHEDULE—*contd.*

Year.	No	Short title	Amendments
1875 .	XVIII .	The Indian Law Reports Act, 1875.	(1) In the preamble for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted [1] (2) In section 3, after the words "Court of Oudh" the words "or the Chief Court of Sind" shall be inserted.[1]
1879 .	XVIII .	The Legal Practitioners Act, 1879	In sub section (4) of section 41, for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted
1891 .	XVI .	The Colonial Courts of Admiralty (India) Act, 1891.	In section 2— (i) after clause (4) the following clause shall be inserted, namely — "(4a) The Chief Court of Sind, and", (ii) the word "and", at the end of clause (5), and clause (6) shall be omitted.
1898 .	V .	The Code of Criminal Procedure, 1898.	[2][(1) In clause (j) of sub section (1) of section 4, for the words 'the Chief Court of Oudh and the Court of the Judicial Commissioner of Sind' the words 'and the Chief Courts of Oudh and Sind' shall be substituted. (2) In section 266, for the words 'the Chief Court of Oudh, the Court of the Judicial Commissioner of Sind and' the words 'the Chief Courts of Oudh and Sind and' shall be substituted.[3]] (3) In sub section (1) of section 364, after the words "Court of Oudh" the words "or the Chief Court of Sind" shall be inserted. (4) In section 365, for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted.
1908 .	V . .	The Code of Civil Procedure, 1908	(1) In section 122, for the words "Court of Oudh" the words "Courts of Oudh and Sind" shall be substituted. (2) In section 123, for the words "of the Chief Court" the words "Chief Courts" shall be substituted.

[1] The preamble having been rep, and s. 3 radically amended, by the A. O, these amendments are no longer applicable.

[2] Subs. by the C. P. Courts (Supplementary) Act, 1935 (8 of 1935), s. 2 and Sch, for the original items (1) and (2).

[3] The relevant portion of s. 266 of the Code having been radically amended by the A. O., this amendment is no longer applicable.

(*Schedule.*)

THE SCHEDULE—*concld.*

Year.	No.	Short title.	Amendments.
1908 .	IX . .	The Indian Limitation Act, 1908.	In the First Schedule, Third Division, in Article 162, after the word "Bombay" the words "or the Chief Court of Sind" shall be inserted.
1909 .	III . .	The Presidency-towns Insolvency Act, 1909.	(1) In clause (*bbb*) of section 2, for the words "Court of the Judicial Commissioner of Sind" the words "Chief Court of Sind" shall be substituted. (2) For clause (*b*) of section 3 the following clause shall be substituted, namely:— "(*b*) the Chief Court of Sind". (3) In section 4 and in sub-section (*1*) of section 6, for the words "Judicial Commissioner" the words "Chief Judge" shall be substituted. (4) In sub-section (*1*) of section 77, for the words "Judicial Commissioner of Sind" the words "Chief Judge of the Chief Court of Sind" shall be substituted. (5) In sub-section (*8*) of section 90, for the words "Court of the Judicial Commissioner of Sind" the words "Chief Court of Sind" shall be substituted.
1920 .	V . .	The Provincial Insolvency Act, 1920.	In clause (*b*) of sub-section (*1*) of section 2, for the words "Court of the Judicial Commissioner of Sind" the words "Chief Court of Sind" shall be substituted.

THE INDIAN BAR COUNCILS ACT, 1926.

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SECTIONS.

(Preliminary)

SECTIONS

ACT No XXXVIII OF 1926 [1]

[9th September, 1926]

An Act to provide for the constitution of Bar Councils in British India and for other purposes

WHEREAS it is expedient to provide for the constitution and incorporation of Bar Councils for certain Courts in British India, to confer powers and impose duties on such Bar Councils, and to consolidate and amend the law relating to legal practitioners entitled to practise in such Courts, It is hereby enacted as follows —

Preliminary

Short title, extent, application and commencement.

1. (*1*) This Act may be called the Indian Bar Councils Act, 1926

(2) It extends to the whole of British India, and shall apply to the High Courts of Judicature at Fort William in Bengal, and at Madras, Bombay, Allahabad, [2][and Patna] and to such other High Courts within the meaning

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[1] For Statement of Objects and Reasons, see Gazette of India, 1926, Pt V, p. 5, and for Report of Select Committee, see ibid, p 119

[2] Subs by the A O for "Patna and Rangoon".

(*Preliminary. Constitution of Bar Councils.*)

of clause (*24*) of section 3 of the General Clauses Act, 1897, as the [1][Provincial Government] may, by notification[2] in the [3][Official Gazette], declare to be High Courts to which this Act applies.

(*3*) This section and sections 2, 17, 18 and 19 shall come into force at once; and the [1][Provincial Government] may, by notification[4] in the [3][Official Gazette], direct that the other provisions of this Act, or any provision thereof specified in the notification, shall come into force in respect of any High Court to which this Act applies on such date as [5][it] may by the notification appoint.

Interpretation.

[6][**2.** (*1*)] In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "advocate" means an advocate entered in the roll of advocates of a High Court under the provisions of this Act;

(*b*) "Advocate-General" includes, where there is no Advocate-General, the Government Advocate and, where there is no Advocate-General or Government Advocate, such officer as the [7][Provincial Government] may declare to be the Advocate-General for the purposes of this Act;

(*c*) "High Court" means a High Court to which this Act applies; and

(*d*) "prescribed" means prescribed by rules made under this Act.

[8][(*2*) In this Act "the Provincial Government" means, in relation to any High Court, the Provincial Government of the Province in which the High Court has its principal seat.]

Constitution of Bar Councils.

Constitution and incorporation of Bar Councils.

3. (*1*) For every High Court a Bar Council shall be constituted in the manner hereinafter provided.

(*2*) Every Bar Council so constituted shall be a body corporate having perpetual succession and a common seal with power to acquire and hold property, both moveable and immoveable, and to contract, and shall by the name of the Bar Council of the High Court for which it has been constituted sue and be sued.

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[1] Subs. by the A. O. for "G. G. in C."

[2] For Notification declaring the Chief Court of Oudh to be a High Court to which this Act applies, *see* Gazette of India, 1928, Pt. I, p. 325.

[3] Subs. by the A. O. for "Gazette of India".

[4] The rest of the Act came into force in respect of—

(i) The Calcutta High Court, ss. 3 to 7 from 1st March, 1928 (*see* Gazette of India, 1928, Pt. I, p. 325) and ss. 8 to 16 from 1st July, 1928 (*see ibid.*, p. 382);
(ii) the Madras High Court from 16th July, 1928 (*see ibid.*, p. 382);
(iii) the Bombay High Court from 1st January, 1929 (*see ibid.*, p. 714);
(iv) the Allahabad High Court from 1st June, 1928 (*see ibid.*, p. 400);
(v) the Patna High Court from 1st January, 1929 (*see ibid.*, p. 703);
(vi) the Oudh Chief Court from 1st March, 1928 (*see ibid.*, p. 325).

[5] Subs. by the A. O. for "he".

[6] S. 2 may be deemed to have been re-numbered as sub-section (*1*) of s. 2 by the A. O., which has added a new sub-section (*2*) to that section.

[7] Subs. by the A. O. for "L. G."

[8] Ins. by the A. O.

(*Constitution of Bar Councils*)

4. (*1*) Every Bar Council shall consist of fifteen members, of whom— Composition of Bar Councils.

(*a*) one shall be the Advocate General,

(*b*) four shall be persons nominated by the High Court, of whom not more than two may be Judges of that Court, and

(*c*) ten shall be elected by the advocates of the High Court from amongst their number

(*2*) Of the elected members of every Bar Council not less than five shall be persons who have for not less than ten years been entitled as of right to practise in the High Court for which the Bar Council has been constituted.

(*3*) Of the elected members of the Bar Councils to be constituted for the High Courts of Judicature at Fort William in Bengal and at Bombay such proportion as the High Court may direct in each case shall be persons who have, for such minimum period as the High Court may determine, been entitled to practise in the High Court in the exercise of its original jurisdiction, and such number as may be fixed by the High Court out of the said proportion shall be barristers of England or Ireland or members of the Faculty of Advocates in Scotland

(*4*) There shall be a Chairman and Vice Chairman of each Bar Council elected by the Council in such manner as may be prescribed·

Provided that the Advocates General of Bengal, Madras and Bombay shall be Chairmen *ex officio*, respectively, of the Bar Councils constituted for the High Courts of Judicature at Fort William in Bengal, at Madras and at Bombay

5. (*1*) Notwithstanding anything contained in clause (c) of sub section (*1*) of section 4, the elected members of the first Bar Council constituted under this Act for any High Court shall be elected by and from amongst the advocates, vakils and pleaders who are on the date of the election entitled as of right to practise in the High Court Special provisions regarding constitution of first Bar Councils.

(*2*) The terms of office of the nominated and elected members of any such first Bar Council shall be three years from the date of the first meeting of the Council

6. (*1*) Rules, consistent with this Act, may be made to provide for the following matters, namely — Power to make rules regarding constitution and procedure of Bar Councils.

(*a*) the manner in which elections of members of the Bar Council shall be held, the method of determining, in accordance with the provisions of sub-sections (2) and (*3*) of section 4, the candidates who shall be declared to have been elected, the manner in which the result of elections shall be published, and the manner in which and the authority by which doubts and disputes as to the validity of an election shall be finally decided,

(*b*) the terms of office of nominated and elected members of the Council,

(*c*) the filling of casual vacancies in the Council;

(Constitution of Bar Councils. Admission and enrolment of advocates.)

(*d*) the convening of meetings of the Council, and the quorum necessary for the transaction of business thereat;

(*e*) the manner of election and the respective terms of office of the Chairman, in cases where the Chairman is to be elected, and of the Vice-Chairman; and

(*f*) any matter incidental or ancillary to any of the foregoing matters.

(*2*) The first rules under this section shall be made by the High Court, but the Bar Council may thereafter, with the previous sanction of the High Court, add to, amend or rescind any rules so made.

(*3*) No election of a member or members to the Council shall be called in question on the ground that due notice thereof has not been given to any person entitled to vote thereat, if notice of the date fixed for the election has, not less than thirty days before that date, been published in the [1][Official Gazette] of the Province, or of each Province, as the case may be, in which the High Court exercises jurisdiction.

(*4*) Rules made under clause (*b*) of sub-section (*1*) may provide for the retirement of members from office by rotation and for the manner in which the order of such retirement shall be determined.

Power of Bar Councils to make bye-laws.

7. The Bar Council may make bye-laws consistent with this Act and any rules made thereunder to provide for any of the following matters, namely:—

(*a*) the appointment of such ministerial officers and servants as the Bar Council may deem necessary, and the pay and allowances and other conditions of service of such officers and servants; and

(*b*) the appointment and constitution of Committees of the Council, the procedure of such Committees, and the determination of the powers or duties of the Council which may be delegated to such Committees.

Admission and enrolment of advocates.

Enrolment of advocates.

8. (*1*) No person shall be entitled as of right to practise in any High Court, unless his name is entered in the roll of the advocates of the High Court maintained under this Act:

Provided that nothing in this sub-section shall apply to any attorney of the High Court.

(*2*) The High Court shall prepare and maintain a roll of advocates of the High Court in which shall be entered the names of—

(*a*) all persons who were, as advocates, vakils or pleaders, entitled as of right to practise in the High Court immediately before the date on which this section comes into force in respect thereof; and

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[1] Subs. by the A. O. for "local official Gazette".

(*Admission and enrolment of advocates*)

(*b*) all other persons who have been admitted to be advocates of the High Court under this Act

Provided that such persons shall have paid in respect of enrolment the stamp duty, if any, chargeable under the Indian Stamp Act, 1899, and a fee, payable to the Bar Council, which shall be ten rupees in the case of the persons referred to in clause (*a*), and in other cases such amount as may be prescribed

[1][(*3*) Entries in the roll shall be made in the order of seniority and such seniority shall be determined as follows namely —

(*a*) all such persons as are referred to in clause (*a*) of sub section (*2*) shall be entered first in the order in which they were respectively entitled to seniority *inter se* immediately before the date *on which this section comes into force in respect of the High* Court , and

(*b*) the seniority of any other person admitted to be an advocate of the High Court under this Act after that date shall be determined by the date of his admission or, if he is a barrister, by the date of his admission or the date on which he was called to the Bar, whichever date is earlier

Provided that, for the purposes of clause (*b*), the seniority of a person who before his admission to be an advocate was entitled as of right to practise in another High Court shall be determined by the date on which he became so entitled

(*4*) The respective rights of pre audience of advocates of the High Court shall be determined by seniority

Provided that the Advocate General shall have pre audience over all other advocates, and King's Counsel shall have pre audience over all advocates except the Advocate-General]

[2][(*5*)] The High Court shall issue a certificate of enrolment to every person enrolled under this section

[2][(*6*)] The High Court shall send to the Bar Council a copy of the roll as prepared under this section, and shall thereafter communicate to the Bar Council all alterations in, and additions to, the roll as soon as the same have been made

[2][(*7*)] The Bar Council shall enter in the copy of the roll all alterations and additions so communicated to it

Qualification and admission of advocates.

9. (*1*) The Bar Council may, with the previous sanction of the High Court, make rules to regulate the admission of persons to be advocates of the High Court .

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[1] Sub-sections (3) and (4) were ins by the Indian Bar Councils (Amendment) Act, 1927 (13 of 1927), s. 2

[2] Sub-sections (3), (4) and (5) were re numbered as sub-sections (5), (6) and (7) respectively by s. 2, *ibid.*

Provided that such rules shall not limit or in any way affect the power of the High Court to refuse admission to any person at its discretion.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules shall provide for the following matters, namely :—

(*a*) the qualifications to be possessed by persons applying for admission as advocates ;

(*b*) the form and manner in which applications shall be made to the High Court for admission ;

(*c*) the giving of notice by the High Court to the Bar Council of all such applications ;

(*d*) the hearing by the High Court of any objection preferred on behalf of the Bar Council to the admission of any applicant ; and

(*e*) the charging of fees payable to the Bar Council in respect of enrolment.

(*3*) Rules made under this section shall provide that no woman shall be disqualified for admission to be an advocate by reason only of her sex.

(*4*) Nothing in this section or in any other provision of this Act shall be deemed to limit or in any way affect the powers of the High Courts of Judicature at Fort William in Bengal and at Bombay to prescribe the qualifications to be possessed by persons applying to practise in those High Courts respectively in the exercise of their original jurisdiction or the powers of those High Courts to grant or refuse, as they think fit, any such application [1][or to prescribe the conditions under which such persons shall be entitled to practise or plead].

Misconduct.

Punishment of advocate for misconduct.

10. (*1*) The High Court may, in the manner hereinafter provided, reprimand, suspend or remove from practice any advocate of the High Court whom it finds guilty of professional or other misconduct.

(*2*) Upon receipt of a complaint made to it by any Court or by the Bar Council or by any other person that any such advocate has been guilty of misconduct, the High Court shall, if it does not summarily reject the complaint, refer the case for inquiry either to the Bar Council or, after consultation with the Bar Council, to the Court of a District Judge (hereinafter referred to as a District Court) and may of its own motion so refer any case in which it has otherwise reason to believe that any such advocate has been so guilty.

Tribunal of Bar Council.

11. (*1*) Where any case is referred for inquiry to the Bar Council under section 10, the case shall be inquired into by a Committee of the Bar Council (hereinafter referred to as the Tribunal).

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[1] Ins. by the Indian Bar Councils (Amendment) Act, 1927 (13 of 1927), s. 3.

(Misconduct)

(2) The Tribunal shall consist of not less than three and not more than five members of the Bar Council appointed for the purpose of the inquiry by the Chief Justice or Chief Judge of the High Court, and one of the members so appointed shall be appointed to be the President of the Tribunal

12. (*1*) The High Court shall make rules to prescribe the procedure to be followed by Tribunals and by District Courts, respectively, in the conduct of inquiries referred under section 10 Procedure in Inquiries.

(2) The finding of a Tribunal on an inquiry referred to the Bar Council under section 10 shall be forwarded to the High Court through the Bar Council, and the finding of a District Court on such an inquiry shall be forwarded direct to the High Court which shall cause a copy thereof to be sent to the Bar Council

(3) On receipt of the finding, the High Court shall fix a date for the hearing of the case and shall cause notice of the day so fixed to be given to the advocate concerned and to the Bar Council and to the Advocate-General, and shall afford the advocate concerned and the Bar Council and the Advocate-General an opportunity of being heard before orders are passed in the case

(4) The High Court may thereafter either pass such final orders in the case as it thinks fit or refer it back for further inquiry to the Tribunal through the Bar Council or to the District Court, as the case may be, and, upon receipt of the finding after such further inquiry, deal with the case in the manner provided in sub section (3) and pass final orders thereon.

(5) In passing final orders the High Court may pass such order as regards the payment of the costs of the inquiry and of the hearing in the High Court as it thinks fit

(6) The High Court may, of its own motion or on application made to it in this behalf, review any order passed under sub section (*1*) or sub-section (5) and maintain, vary or rescind the same, as it thinks fit.

(7) When any advocate is reprimanded or suspended under this Act, a record of the punishment shall be entered against his name in the roll of advocates of the High Court, and when an advocate is removed from practice his name shall forthwith be struck off the roll, and the certificate of any advocate so suspended or removed shall be recalled.

13. (*1*) For the purposes of any such inquiry as aforesaid, a Tribunal [illegible] or a District Court shall have the same powers as are vested in a Court [illegible] the Code of Civil Procedure, 1908, in respect of the following matters, [illegible]ly :—

(*a*) enforcing the attendance of any person and examining him [illegible] oath,

(*b*) compelling the production of documents, and

(c) issuing commissions for the examination of [illegible]

(Misconduct. Miscellaneous.)

Provided that the Tribunal shall not have power to require the attendance of the presiding officer of any Court save with the previous sanction of the High Court or, in the case of an officer of a Criminal or Revenue Court, of the [1][Provincial Government].

(2) Every such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code; and a Tribunal shall be deemed to be a Civil Court for the purposes of sections 480, 482 and 485 of the Code of Criminal Procedure, 1898. XLV of 1860. V of 189

(3) For the purpose of enforcing the attendance of any person and examining him upon oath or of compelling the production of documents or of issuing commissions—

(a) the local limits of the jurisdiction of a Tribunal shall be those of the jurisdiction of the High Court by which the Tribunal has been constituted; and

(b) a Tribunal may send to any Civil Court having jurisdiction in the place where the Tribunal is sitting any summons or other process for the attendance of a witness or the production of a document required by the Tribunal, or any commission which it desires to issue, and the Civil Court shall serve such process or issue such commission, as the case may be, and may enforce any such process as if it were a process for attendance or production before itself.

(4) Proceedings before a Tribunal or a District Court in any such inquiry shall be deemed to be civil proceedings for the purposes of section 132 of the Indian Evidence Act, 1872, and the provisions of that section shall apply accordingly. I of 1872.

Miscellaneous.

Right of advocates to practise.

14. (1) An advocate shall be entitled as of right to practise—

(a) subject to the provisions of sub-section (4) of section 9, in the High Court of which he is an advocate, and

(b) save as otherwise provided by sub-section (2) or by or under any other law for the time being in force in any other Court in British India and before any other Tribunal or person legally authorised to take evidence, and

(c) before any other authority or person before whom such advocate is by or under the law for the time being in force entitled to practise.

(2) Where rules have been made by any High Court within the meaning of clause (24) of section 3 of the General Clauses Act, 1897, or in the case of a High Court for which a Bar Council has been constituted under this Act, X of 189

[1] Subs. by the A. O. for "L. G."

(*Miscellaneous*)

by such Bar Council under section 15, regulating the conditions subject to which advocates of other High Courts may be permitted to practise in the High Court, such advocates shall not be entitled to practise therein otherwise than subject to such conditions

(3) Nothing in this section shall be deemed to limit or in any way affect the power of the High Court of Judicature at Fort William in Bengal or of the High Court of Judicature at Bombay to make rules determining the persons who shall be entitled respectively to plead and to act in the High Court in the exercise of its original jurisdiction

15. A Bar Council may, with the previous sanction of the High Court for which it is constituted, make rules consistent with this Act to provide for and regulate any of the following matters, namely — General power of Bar Councils to make rules

(*a*) the rights and duties of the advocates of the High Court and their discipline and professional conduct,

(*b*) the conditions subject to which advocates of other High Courts may be permitted to practise in the High Court,

(*c*) the giving of facilities for legal education and training and the holding and conduct of examinations by the Bar Council,

(*d*) the charging of fees payable to the Bar Council in respect of the enjoyment of educational facilities provided, or of the right to appear at examinations held, by the Bar Council,

(*e*) the investment and management of the funds of the Bar Council, and

(*f*) any other matter in respect of which the High Court may require rules to be made under this section

16. The High Court shall make rules for fixing and regulating by taxation or otherwise the fees payable as costs by any party in respect of the fees of his adversary's advocate upon all proceedings in the High Court or in any Court subordinate thereto Power to fix fees payable as costs.

17. No suit or other legal proceeding shall lie against a Bar Council or any Committee, Tribunal or member of a Bar Council for any act in good faith done or intended to be done in pursuance of the provisions of this Act or of any rule made thereunder Indemnity against legal proceedings

18. All rules made under this Act shall be published in the [1][Official Gazette] of the Province, or of each Province, as the case may be, in which the High Court by which or with whose sanction the rules are made exercises jurisdiction Publication of rules

19. (*1*) When sections 8 to 16 come into force in respect of any High Court, any enactment mentioned in the first column of the Schedule which is in force in any Province in which the High Court exercises jurisdiction shall, for the purpose of its application to that Province, be amended to the extent and in the manner specified in the second column of the Schedule Amendment of enactments, etc

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[1] Subs by the A O for "local official Gazette".

(*Miscellaneous. The Schedule.*)

(2) When sections 8 to 16 come into force in respect of any High Court of Judicature established by Letters Patent, this Act shall have effect in respect of such Court notwithstanding anything contained in such Letters Patent, and such Letters Patent shall, in so far as they are inconsistent with this Act or any rules made thereunder, be deemed to have been repealed.

(3) When sections 8 to 16 come into force in respect of the High Court of Judicature at Bombay, the Bombay Pleaders' Act, 1920, except section 7 thereof, shall cease to apply to or in respect of any person enrolled as an advocate of the High Court under this Act, and nothing in that Act shall be deemed to authorise the admission or enrolment of any person as a vakil or pleader of the High Court. Bom. Act XVII of 1920.

(4) When this Act has come into force in respect of any High Court, any provision of any other enactment or any order, scheme, rule, form or bye-law made thereunder, which was before that date applicable to advocates, vakils or pleaders entitled to practise in such High Court shall, unless such a construction is repugnant to the context or to any provision made by or under this Act, be construed as applying to advocates of the High Court enrolled under this Act.

THE SCHEDULE.

(*See section 19.*)

AMENDMENT OF ENACTMENTS.

Enactments amended.	Extent and manner of amendment.
The Legal Practitioners Act, 1879.	(1) In section 4, after the words "with the permission of the Court" the words and figures "or, in the case of a High Court in respect of which the Indian Bar Councils Act, 1926, is in force, subject to rules made under that Act" shall be inserted. (2) In section 6, clauses (*a*) and (*b*), after the words "Royal Charter" the words and figures "in respect of which the Indian Bar Councils Act, 1926, is not in force" shall be inserted. (3) To section 38 the following words and figures shall be added, *namely*:— "and, except as provided by section 36, nothing in this Act applies to persons enrolled as advocates of any High Court under the Indian Bar Councils Act, 1926." (4) In section 41, sub-section (*1*), after the words "Royal Charter" the words and figures "in respect of which the Indian Bar Councils Act, 1926, is not in force" shall be inserted.

THE SCHEDULE—*contd.*

Enactments amended.	Extent and manner of amendment.
The Indian Stamp Act, 1899.	In Article 30 of the First Schedule after the words "High Court," where they first occur, the words and figures "under the Indian Bar Councils Act, 1926, or" shall be inserted.
The Madras Stamp (Amendment) Act, 1922.	In Article 25 of Schedule 1A, after the words "High Court," where they first occur, the words and figures "under the Indian Bar Councils Act, 1926, or" shall be inserted.
The Bengal Stamp (Amendment) Act, 1922.	In Article 30 of Schedule 1A, after the words "High Court," where they first occur, the words and figures "under the Indian Bar Councils Act, 1926, or" shall be inserted.
The Indian Stamp (Punjab Amendment) Act, 1922.	In Article 30 of Schedule 1A, after the words "High Court," where they first occur, the words and figures "under the Indian Bar Councils Act, 1926, or" shall be inserted.
The Assam Stamp (Amendment) Act, 1922.	In Article 30 of Schedule 1A, after the words "High Court," where they first occur, the words and figures "under the Indian Bar Councils Act, 1926, or" shall be inserted.

THE INDIAN FOREST ACT, 1927.

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ACT No. XVI OF 1927.[1]

[*21st September, 1927.*]

An Act to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce

WHEREAS it is expedient to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce, It is hereby enacted as follows —

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Indian Forest Act, 1927. Short t[itle] and ext[ent]

(2) It extends to Bombay, Bengal, Bihar and Orissa[2], the United Provinces, the Punjab, the Central Provinces and the North-West Frontier Province (except the District of Hazara)

(3) The [3][Provincial Government] of any other Province may, by notification in the [4][Official Gazette], extend[5] this Act to the whole or any specified part of the Province.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1926, Pt. V, p 165, and for Report of Select Committee, *see ibid*, p 242

[2] This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch , and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch

[3] Subs. by the A O for "L. G"

[4] Subs. by the A O for "local official Gazette"

[5] The Act has been extended to—
the Province of Coorg, *see* Coorg Gazette, 1930, Pt. I, p. 94, and
the Delhi Province *see* Gazette of India, 1933, Pt. II A, p. 293.

(*Chapter I.—Preliminary.*)

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se.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "cattle" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids;

(*2*) "Forest-officer" means any person whom [1]* * * * the [2][Provincial Government] or any officer empowered by [1]* * * the [2][Provincial Government] in this behalf, may appoint to carry out all or any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a Forest-officer;

(*3*) "forest-offence" means an offence punishable under this Act or under any rule made thereunder;

(*4*) "forest-produce" includes—

(*a*) the following whether found in, or brought from, a forest or not, that is to say:—

timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds [3][, kuth] and myrabolams, and

(*b*) the following when found in, or brought from, a forest, that is to say:—

(i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned, of trees,

(ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,

(iii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey, and wax, and all other parts of produce of animals, and

(iv) peat, surface soil, rock, and minerals (including limestone, laterite, mineral oils, and all products of mines or quarries);

[4][(*4A*) "owner" includes a Court of Wards in respect of property under the superintendence or charge of such court;]

(*5*) "river" includes any stream, canal, creek or other channels, natural or artificial;

(*6*) "timber" includes trees when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not; and

(*7*) "tree" includes palms, bamboos, stumps, brush-wood and canes.

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[1] The words "the G. G. in C. or" rep. by the A. O.
[2] Subs. by the A. O. for "L. G."
[3] Ins. by the Indian Forest (Amendment) Act, 1930 (26 of 1930), s. 2.
[4] Ins. by the Indian Forest (Amendment) Act, 1933 (3 of 1933), s. 2.

CHAPTER II

OF RESERVED FORESTS

3. The [1][Provincial Government] may constitute any forest-land or waste land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a reserved forest in the manner hereinafter provided. Power to reserve forests.

4. (*1*) Whenever it has been decided to constitute any land a reserved forest, the [1][Provincial Government] shall issue a notification in the [2][Official Gazette]— Notification by Provincial Government.

(*a*) declaring that it has been decided to constitute such land a reserved forest;

(*b*) specifying, as nearly as possible, the situation and limits of such land; and

(*c*) appointing an officer (hereinafter called "the Forest Settlement-officer") to inquire into and determine the existence, nature and extent of any rights alleged to exist in favour of any person in or over any land comprised within such limits, or in or over any forest-produce, and to deal with the same as provided in this Chapter.

Explanation.—For the purpose of clause (*b*), it shall be sufficient to describe the limits of the forest by roads, rivers, ridges or other well-known or readily intelligible boundaries.

(*2*) The officer appointed under clause (*c*) of sub-section (*1*) shall ordinarily be a person not holding any forest-office except that of Forest Settlement-officer.

(3) Nothing in this section shall prevent the [1][Provincial Government] from appointing any number of officers not exceeding three, not more than one of whom shall be a person holding any forest-office except as aforesaid, to perform the duties of a Forest Settlement-officer under this Act.

5. After the issue of a notification under section 4, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by or [3][on behalf of the Crown] or some person in whom such right was vested when the notification was issued; and no fresh clearings for cultivation or for any other purpose shall be made in such land except in accordance with such rules as may be made by the [1][Provincial Government] in this behalf. Bar of accrual of forest-rights.

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "local official Gazette".
[3] Subs. by the A. O. for "on behalf of Govt."

(Chapter II.—Of Reserved Forests.)

Proclamation by Forest Settlement-officer.

6. When a notification has been issued under section 4, the Forest Settlement-officer shall publish in the local vernacular in every town and village in the neighbourhood of the land comprised therein, a proclamation—

(*a*) specifying, as nearly as possible, the situation and limits of the proposed forest;

(*b*) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and

(*c*) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right mentioned in section 4 or section 5 within such period either to present to the Forest Settlement-officer a written notice specifying or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

Inquiry by Forest Settlement-officer.

7. The Forest Settlement-officer shall take down in writing all statements made under section 6, and shall at some convenient place inquire into all claims duly preferred under that section, and the existence of any rights mentioned in section 4 or section 5 and not claimed under section 6 so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

Powers of Forest Settlement-officer.

8. For the purpose of such inquiry, the Forest Settlement-officer may exercise the following powers, that is to say:—

(*a*) power to enter, by himself or any officer authorised by him for the purpose, upon any land, and to survey, demarcate and make a map of the same; and

(*b*) the powers of a Civil Court in the trial of suits.

Extinction of rights.

9. Rights in respect of which no claim has been preferred under section 6, and of the existence of which no knowledge has been acquired by inquiry under section 7, shall be extinguished, unless, before the notification under section 20 is published, the person claiming them satisfies the Forest Settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section 6.

[Tr]eatment of claims [relating] to [practi]ce of shifting cultivation.

10. (*1*) In the case of a claim relating to the practice of shifting cultivation, the Forest Settlement-officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the [1][Provincial Government], together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

(*2*) On receipt of the statement and opinion, the [1][Provincial Government] may make an order permitting or prohibiting the practice wholly or in part.

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[1] Subs. by the A. O. for "L. G."

(*3*) If such practice is permitted wholly or in part, the Forest Settlement-officer may arrange for its exercise—

(*a*) by altering the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants, or

(*b*) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practice shifting cultivation therein under such conditions as he may prescribe

(*4*) All arrangements made under sub section (*3*) shall be subject to the previous sanction of the [1][Provincial Government]

(*5*) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the [1][Provincial Government]

11. (*1*) In the case of a claim to a right in or over any land, other than a right-of way or right of pasture, or a right to forest-produce or a water course, the Forest Settlement-officer shall pass an order admitting or rejecting the same in whole or in part — Power to acquire land over which right is claimed.

(*2*) If such claim is admitted in whole or in part, the Forest Settlement-officer shall either—

(i) exclude such land from the limits of the proposed forest, or

(ii) come to an agreement with the owner thereof for the surrender of his rights, or

(iii) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1894

(*3*) For the purpose of so acquiring such land—

(*a*) the Forest Settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1894,

(*b*) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act,

(*c*) the provisions of the preceding sections of that Act shall be deemed to have been complied with, and

(*d*) the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money

12. In the case of a claim to rights of pasture or to forest-produce, the Forest Settlement-officer shall pass an order admitting or rejecting the same in whole or in part

[1] Subs. by the A. O. for "L. G."

(*Chapter II.—Of Reserved Forests.*)

Record to be made by Forest Settlement-officer.

13. The Forest Settlement-officer, when passing any order under section 12, shall record, so far as may be practicable,—

(*a*) the name, father's name, caste, residence and occupation of the person claiming the right; and

(*b*) the designation, position and area of all fields or groups of fields (if any), and the designation and position of all buildings (if any) in respect of which the exercise of such rights is claimed.

Record where he admits claim.

14. If the Forest Settlement-officer admits in whole or in part any claim under section 12, he shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to graze in the forest, the season during which such pasture is permitted, the quantity of timber and other forest-produce which he is from time to time authorised to take or receive, and such other particulars as the case may require. He shall also record whether the timber or other forest-produce obtained by the exercise of the rights claimed may be sold or bartered.

Exercise of rights admitted.

15. (*1*) After making such record the Forest Settlement-officer shall, to the best of his ability, and having due regard to the maintenance of the reserved forest in respect of which the claim is made, pass such orders as will ensure the continued exercise of the rights so admitted.

(*2*) For this purpose the Forest Settlement-officer may—

(*a*) set out some other forest-tract of sufficient extent, and in a locality reasonably convenient, for the purposes of such claimants, and record an order conferring upon them a right of pasture or to forest-produce (as the case may be) to the extent so admitted; or.

(*b*) so alter the limits of the proposed forest as to exclude forest-land of sufficient extent, and in a locality reasonably convenient, for the purposes of the claimants; or

(*c*) record an order, continuing to such claimants a right of pasture or to forest-produce, as the case may be, to the extent so admitted, at such seasons, within such portions of the proposed forest, and under such rules, as may be made in this behalf by the [1][Provincial Government].

Commutation of rights.

16. In case the Forest Settlement-officer finds it impossible, having due regard to the maintenance of the reserved forest, to make such settlement under section 15 as shall ensure the continued exercise of the said rights to the extent so admitted, he shall, subject to such rules as the [1][Provincial Government] may make in this behalf, commute such rights, by the payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as he thinks fit.

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1 Subs. by the A. O. for "L. G."

Appeal from order passed under section 11, section 12, section 15 or section 16.

17. Any person who has made a claim under this Act, or any Forest-officer or other person generally or specially empowered by the [1][Provincial Government] in this behalf, may, within three months from the date of the order passed on such claim by the Forest Settlement-officer under section 11, section 12, section 15 or section 16, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Collector, as the [1][Provincial Government] may, by notification in the [2][Official Gazette], appoint to hear appeals from such orders:

Provided that the [1][Provincial Government] may establish a Court (hereinafter called the Forest Court) composed of three persons to be appointed by the [1][Provincial Government], and when the Forest Court has been so established, all such appeals shall be presented to it.

Appeal under section 17.

18. (*1*) Every appeal under section 17 shall be made by petition in writing, and may be delivered to the Forest Settlement-officer, who shall forward it without delay to the authority competent to hear the same.

(*2*) If the appeal be to an officer appointed under section 17, it shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to land revenue.

(*3*) If the appeal be to the Forest Court, the Court shall fix a day and a convenient place in the neighbourhood of the proposed forest for hearing the appeal, and shall give notice thereof to the parties, and shall hear such appeal accordingly.

(*4*) The order passed on the appeal by such officer or Court, or by the majority of the members of such Court, as the case may be, shall, subject only to revision by the [1][Provincial Government], be final.

Pleaders.

19. The [1][Provincial Government], or any person who has made a claim under this Act, may appoint any person to appear, plead and act on its or his behalf before the Forest Settlement-officer, or the appellate officer or Court, in the course of any inquiry or appeal under this Act.

Notification declaring forest reserved.

20. (*1*) When the following events have occurred, namely:—

(*a*) the period fixed under section 6 for preferring claims has elapsed, and all claims, if any, made under that section or section 9 have been disposed of by the Forest Settlement-officer;

(*b*) if any such claims have been made, the period limited by section 17 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer or Court; and

(*c*) all lands (if any) to be included in the proposed forest, which the Forest Settlement-officer has, under section 11, elected to acquire under the Land Acquisition Act, 1894, have become vested in the Government under section 16 of that Act, the

[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "local official Gazette".

(*Chapter II.—Of Reserved Forests.*)

[1][Provincial Government] shall publish a notification in the [2][Official Gazette], specifying definitely, according to boundary-marks erected or otherwise, the limits of the forest which is to be reserved, and declaring the same to be reserved from a date fixed by the notification.

(*2*) From the date so fixed such forest shall be deemed to be a reserved forest.

Publication of translation of such notification in neighbourhood of forest.

21. The Forest-officer shall, before the date fixed by such notification, cause a translation thereof into the local vernacular to be published in every town and village in the neighbourhood of the forest.

Power to revise arrangement made under section 15 or section 18.

22. The [1][Provincial Government] may, within five years from the publication of any notification under section 20, revise any arrangement made under section 15 or section 18, and may for this purpose rescind or modify any order made under section 15 or section 18, and direct that any one of the proceedings specified in section 15 be taken in lieu of any other of such proceedings, or that the rights admitted under section 12 be commuted under section 16.

No right acquired over reserved forest, except as here provided.

23. No right of any description shall be acquired in or over a reserved forest except by succession or under a grant or contract in writing made by or [3][on behalf of the Crown] or some person in whom such right was vested when the notification under section 20 was issued.

Rights not to be alienated without sanction.

24. (*1*) Notwithstanding anything contained in section 23, no right continued under clause (*c*) of sub-section (*2*) of section 15 shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of the [1][Provincial Government]:

Provided that, when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house.

(*2*) No timber or other forest-produce obtained in exercise of any such right shall be sold or bartered except to such extent as may have been admitted in the order recorded under section 14.

Power to stop ways and water-courses in reserved forests.

25. The Forest-officer may, with the previous sanction of the [1][Provincial Government] or of any officer duly authorised by it in this behalf, stop any public or private way or water-course in a reserved forest, provided that a substitute for the way or water-course so stopped, which the [1][Provincial Government] deems to be reasonably convenient, already exists, or has been provided or constructed by the Forest-officer in lieu thereof.

Acts prohibited in such forests.

26. (*1*) Any person who—

(*a*) makes any fresh clearing prohibited by section 5, or

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "local official Gazette".
[3] Subs. by the A. O. for "on behalf of the Govt."

(*b*) sets fire to a reserved forest, or, in contravention of any rules made by the [1][Provincial Government] in this behalf, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest,

or who, in a reserved forest—

(*c*) kindles, keeps or carries any fire except at such seasons as the Forest-officer may notify in this behalf,

(*d*) trespasses or pastures cattle, or permits cattle to trespass,

(*e*) causes any damage by negligence in felling any tree or cutting or dragging any timber,

(*f*) fells, girdles, lops, taps or burns any tree or strips off the bark or leaves from, or otherwise damages, the same,

(*g*) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce,

(*h*) clears or breaks up any land for cultivation or any other purpose,

(*i*) in contravention of any rules made in this behalf by the [1][Provincial Government] hunts, shoots, fishes, poisons water or sets traps or snares, or

(*j*) in any area in which the Elephants' Preservation Act, 1879, is not in force, kills or catches elephants in contravention of any rules so made,

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

(2) Nothing in this section shall be deemed to prohibit—

(*a*) any act done by permission in writing of the Forest-officer, or under any rule made by the [1][Provincial Government], or

(*b*) the exercise of any right continued under clause (*c*) of sub-section (2) of section 15, or created by grant or contract in writing made by or [2][on behalf of the Crown] under section 23.

(3) Whenever fire is caused wilfully or by gross negligence in a reserved forest, the [1][Provincial Government] may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest-produce shall be suspended for such period as it thinks fit.

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[1] Subs. by the A. O. for 'L. G.'
[2] Subs. by the A. O. for 'on behalf of Govt.'

Power to declare forest no longer reserved.

27. (*1*) The [1][Provincial Government] may, [2]* * * by notification in the [3][Official Gazette], direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act shall cease to be a reserved forest.

(*2*) From the date so fixed, such forest or portion shall cease to be reserved; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

CHAPTER III.

Of Village-forests.

Formation of village-forests.

28. (*1*) The [1][Provincial Government] may assign to any village-community the rights of Government to or over any land which has been constituted a reserved forest, and may cancel such assignment All forests so assigned shall be called village-forests.

(*2*) The [1][Provincial Government] may make rules for regulating the management of village-forests, prescribing the conditions under which the community to which any such assignment is made may be provided with timber or other forest-produce or pasture, and their duties for the protection and improvement of such forest.

(*3*) All the provisions of this Act relating to reserved forests shall (so far as they are not inconsistent with the rules so made) apply to village-forests.

CHAPTER IV.

Of Protected Forests.

Protected forests.

29. (*1*) The [1][Provincial Government] may, by notification in the [3][Official Gazette], declare the provisions of this Chapter applicable to any forest-land or waste-land which is not included in a reserved forest, but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled.

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[1] Subs. by the A. O. for "L. G."

[2] The words "subject to the control of the G. G. in C." rep. by the A. O.

[3] Subs. by the A. O. for "local official Gazette".

(2) The forest-land and waste-lands comprised in any such notification shall be called a "protected forest."

(3) No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the forest-land or waste-land comprised therein have been inquired into and recorded at a survey or settlement, or in such other manner as the [1][Provincial Government] thinks sufficient. Every such record shall be presumed to be correct until the contrary is proved:

Provided that, if, in the case of any forest-land or waste-land, the [1][Provincial Government] thinks that such inquiry and record are necessary, but that they will occupy such length of time as in the meantime to endanger the rights of Government, the [1][Provincial Government] may, pending such inquiry and record, declare such land to be a protected forest, but so as not to abridge or affect any existing rights of individuals or communities.

30. The [1][Provincial Government] may, by notification in the [2][Official Gazette],— Power to issue notification reserving trees, etc.

(a) declare any trees or class of trees in a protected forest to be reserved from a date fixed by the notification;

(b) declare that any portion of such forest specified in the notification shall be closed for such term, not exceeding thirty years, as the [1][Provincial Government] thinks fit, and that the rights of private persons, if any, over such portion shall be suspended during such term, provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the rights suspended in the portion so closed; or

(c) prohibit, from a date fixed as aforesaid, the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or removal of, any forest-produce in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, of any land in any such forest.

31. The Collector shall cause a translation into the local vernacular of every notification issued under section 30 to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest comprised in the notification. Publication of translation of [illegible]

32. The [1][Provincial Government] may make rules to regulate the following matters, namely:— [illegible]

(a) the cutting, sawing, conversion and [illegible] trees and timber, and the collection, manufacture and [illegible] of forest-produce, from protected forests;

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[1] Subs. by the A. O. [illegible]

[2] Subs. by the [illegible]

(*Chapter IV.—Of Protected Forests.*)

(*b*) the granting of licences to the inhabitants of towns and villages in the vicinity of protected forests to take trees, timber or other forest-produce for their own use, and the production and return of such licences by such persons;

(*c*) the granting of licences to persons felling or removing trees or timber or other forest-produce from such forests for the purposes of trade, and the production and return of such licences by such persons;

(*d*) the payments, if any, to be made by the persons mentioned in clauses (*b*) and (*c*) for permission to cut such trees, or to collect and remove such timber or other forest-produce;

(*e*) the other payments, if any, to be made by them in respect of such trees, timber and produce, and the places where such payment shall be made;

(*f*) the examination of forest-produce passing out of such forests;

(*g*) the clearing and breaking up of land for cultivation or other purposes in such forests;

(*h*) the protection from fire of timber lying in such forests and of trees reserved under section 30;

(*i*) the cutting of grass and pasturing of cattle in such forests;

(*j*) hunting, shooting, fishing, poisoning water and setting traps or snares in such forests, and the killing or catching of elephants in such forests in areas in which the Elephants' Preservation Act, 1879, is not in force; VI of 1879.

(*k*) the protection and management of any portion of a forest closed under section 30; and

(*l*) the exercise of rights referred to in section 29.

Penalties for acts in contravention of notification under section 30 or of rules under section 32.

33. (*1*) Any person who commits any of the following offences, namely:—

(*a*) fells, girdles, lops, taps or burns any tree reserved under section 30, or strips off the bark or leaves from, or otherwise damages, any such tree;

(*b*) contrary to any prohibition under section 30, quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes any forest-produce;

(*c*) contrary to any prohibition under section 30, breaks up or clears for cultivation or any other purpose any land in any protected forest;

(*d*) sets fire to such forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any tree reserved under section 30, whether standing, fallen or felled, or to any closed portion of such forest;

(e) leaves burning any fire kindled by him in the vicinity of any such tree or closed portion,

(f) fells any tree or drags any timber so as to damage any tree reserved as aforesaid,

(g) permits cattle to damage any such tree,

(h) infringes any rule made under section 32,

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees or with both

(2) Whenever fire is caused wilfully or by gross negligence in a protected forest, the [1][Provincial Government] may, notwithstanding that any penalty has been inflicted under this section, direct that in such forest or any portion thereof the exercise of any right of pasture or to forest produce shall be suspended for such period as it thinks fit

34. Nothing in this Chapter shall be deemed to prohibit any act done with the permission in writing of the Forest-officer, or in accordance with rules made under section 32 or, except as regards any portion of a forest closed under section 30, or as regards any rights the exercise of which has been suspended under section 33, in the exercise of any right recorded under section 29 *Nothing in this Chapter to prohibit acts done in certain cases*

CHAPTER V

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT

35. (1) The [1][Provincial Government] may, by notification in the [2][Official Gazette], regulate or prohibit in any forest or waste land— *Protection of forests for special purposes.*

(a) the breaking up or clearing of land for cultivation,

(b) the pasturing of cattle, or

(c) the firing or clearing of the vegetation,

when such regulation or prohibition appears necessary for any of the following purposes —

(i) for protection against storms, winds, rolling stones, floods and avalanches,

(ii) for the preservation of the soil on the ridges and slopes and in the valleys of hilly tracts, the prevention of landslips or of the formation of ravines and torrents, or the protection of land against erosion, or the deposit thereon of sand, stones or gravel,

(iii) for the maintenance of a water-supply in springs, rivers and tanks,

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[1] Subs. by the A O for L. G

[2] Subs. by the A O for local official Gazette

(*b*) the granting of licences to the inhabitants of towns and villages in the vicinity of protected forests to take trees, timber or other forest-produce for their own use, and the production and return of such licences by such persons;

(*c*) the granting of licences to persons felling or removing trees or timber or other forest-produce from such forests for the purposes of trade, and the production and return of such licences by such persons;

(*d*) the payments, if any, to be made by the persons mentioned in clauses (*b*) and (*c*) for permission to cut such trees, or to collect and remove such timber or other forest-produce;

(*e*) the other payments, if any, to be made by them in respect of such trees, timber and produce, and the places where such payment shall be made;

(*f*) the examination of forest-produce passing out of such forests;

(*g*) the clearing and breaking up of land for cultivation or other purposes in such forests;

(*h*) the protection from fire of timber lying in such forests and of trees reserved under section 30;

(*i*) the cutting of grass and pasturing of cattle in such forests;

(*j*) hunting, shooting, fishing, poisoning water and setting traps or snares in such forests, and the killing or catching of elephants in such forests in areas in which the Elephants' Preservation Act, 1879, is not in force; VI of 1879.

(*k*) the protection and management of any portion of a forest closed under section 30; and

(*l*) the exercise of rights referred to in section 29.

Penalties for acts in contravention of notification under section 30 or of rules under section 32.

33. (*1*) Any person who commits any of the following offences, namely:—

(*a*) fells, girdles, lops, taps or burns any tree reserved under section 30, or strips off the bark or leaves from, or otherwise damages, any such tree;

(*b*) contrary to any prohibition under section 30, quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes any forest-produce;

(*c*) contrary to any prohibition under section 30, breaks up or clears for cultivation or any other purpose any land in any protected forest;

(*d*) sets fire to such forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any tree reserved under section 30, whether standing, fallen or felled, or to any closed portion of such forest;

(*e*) leaves burning any fire kindled by him in the vicinity of any such tree or closed portion ;

(*f*) fells any tree or drags any timber so as to damage any tree reserved as aforesaid ;

(*g*) permits cattle to damage any such tree ;

(*h*) infringes any rule made under section 32 ;

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(2) Whenever fire is caused wilfully or by gross negligence in a protected forest, the [1][Provincial Government] may, notwithstanding that any penalty has been inflicted under this section, direct that in such forest or any portion thereof the exercise of any right of pasture or to forest-produce shall be suspended for such period as it thinks fit.

34. Nothing in this Chapter shall be deemed to prohibit any act done with the permission in writing of the Forest-officer, or in accordance with rules made under section 32, or, except as regards any portion of a forest closed under section 30, or as regards any rights the exercise of which has been suspended under section 33, in the exercise of any right recorded under section 29.

Nothing in this Chapter to prohibit acts done in certain cases.

CHAPTER V.

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT.

35. (*1*) The [1][Provincial Government] may, by notification in the [2][Official Gazette], regulate or prohibit in any forest or waste-land—

Protection of forests for special purposes.

(*a*) the breaking up or clearing of land for cultivation ;

(*b*) the pasturing of cattle ; or

(*c*) the firing or clearing of the vegetation ;

when such regulation or prohibition appears necessary for any of the following purposes :—

(i) for protection against storms, winds, rolling stones, floods and avalanches ;

(ii) for the preservation of the soil on the ridges and slopes and in the valleys of hilly tracts, the prevention of landslips or of the formation of ravines and torrents, or the protection of land against erosion, or the deposit thereon of sand, stones or gravel ;

(iii) for the maintenance of a water-supply in springs, rivers and tanks ;

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[1] Subs. by the A. O. for "L. G."

[2] Subs. by the A. O. for "local official Gazette".

(iv) for the protection of roads, bridges, railways and other lines of communication;

(v) for the preservation of the public health.

(2) The [1][Provincial Government] may, for any such purpose, construct at its own expense, in or upon any forest or waste-land, such work as it thinks fit.

(3) No notification shall be made under sub-section (*1*) nor shall any work be begun under sub-section (*2*), until after the issue of a notice to the owner of such forest or land calling on him to show cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, as the case may be, and until his objections, if any, and any evidence he may produce in support of the same, have been heard by an officer duly appointed in that behalf and have been considered by the [1][Provincial Government].

36. (*1*) In case of neglect of, or wilful disobedience to, any regulation or prohibition under section 35, or if the purposes of any work to be constructed under that section so require, the [1][Provincial Government] may, after notice in writing to the owner of such forest or land and after considering his objections, if any, place the same under the control of a Forest-officer, and may declare that all or any of the provisions of this Act relating to reserved forests shall apply to such forest or land.

(*2*) The net profits, if any, arising from the management of such forest or land shall be paid to the said owner.

37. (*1*) In any case under this Chapter in which the [1][Provincial Government] considers that, in lieu of placing the forest or land under the control of a Forest-officer, the same should be acquired for public purposes, the [1][Provincial Government] may proceed to acquire it in the manner provided by the Land Acquisition Act, 1894. I of 189

(*2*) The owner of any forest or land comprised in any notification under section 35 may, at any time not less than three or more than twelve years from the date thereof, require that such forest or land shall be acquired for public purposes, and the [1][Provincial Government] shall acquire such forest or land accordingly.

Protection of forests at request of owners.

38. (*1*) The owner of any land or, if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to at least two-thirds thereof may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector their desire—

(*a*) that such land be managed on their behalf by the Forest-officer as a reserved or a protected forest on such terms as may be mutually agreed upon; or

(*b*) that all or any of the provisions of this Act be applied to such land.

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[1] Subs. by the A. O. for "L. G."

(Chapter V.—Of the Control over Forests and Lands not being the Property of Government. Chapter VI.—Of the Duty on Timber and other Forest-produce.)

(2) In either case, the [1][Provincial Government] may, by notification in the [2][Official Gazette], apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

CHAPTER VI

OF THE DUTY ON TIMBER AND OTHER FOREST PRODUCE

Power to impose duty on timber and other forest produce.

39. (1) The [1][Central Government] may levy a duty in such manner at such places and at such rates as it may declare by notification in the [2][Official Gazette] on all timber or other forest produce—

(a) which is produced in British India and in respect of which [3][the Crown] has any right;

(b) which is brought from any place outside British India.

[4]* * * * * * *

(2) In every case in which such duty is directed to be levied *ad valorem* the [1][Central Government] may fix by like notification the value on which such duty shall be assessed.

(3) All duties on timber or other forest produce which at the time when this Act comes into force in any territory, are levied therein under the authority of the [1][Provincial Government], shall be deemed to be and to have been duly levied under the provisions of this Act.

[5][(4) Notwithstanding anything in this section, the Provincial Government may, until provision to the contrary is made by the Central Legislature, continue to levy any duty which it was lawfully levying before the commencement[6] of Part III of the Government of India Act, 1935, under this section as then in force:

5. Provided that nothing in this sub-section authorises the levy of any duty which as between timber or other forest produce of the Province and similar produce of the locality outside the Province, discriminates in favour of the former, or which, in the case of timber or other forest-produce of localities outside the Province, discriminates between timber or other forest-produce of one locality and similar timber or other forest produce of another locality.]

Limit not to apply to purchase-money or royalty.

40. Nothing in this Chapter shall be deemed to limit the amount, if any, chargeable as purchase-money or royalty on any timber or other forest produce, although the same is levied on such timber or produce while in transit, in the same manner as duty is levied.

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "local official Gazette".
[3] Subs. by the A. O. for "the Govt."
[4] The proviso was rep. by the A. O.
[5] Ins. by the A. O. *cf.* ss. 143 (2) and 297 (1) (b) of the Government of India Act, 1935.
[6] *I.e.*, the 1st April, 1937.

(iv) for the protection of roads, bridges, railways and other lines of communication ;

(v) for the preservation of the public health.

(2) The [1][Provincial Government] may, for any such purpose, construct at its own expense, in or upon any forest or waste-land, such work as it thinks fit.

(3) No notification shall be made under sub-section (1) nor shall any work be begun under sub-section (2), until after the issue of a notice to the owner of such forest or land calling on him to show cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, as the case may be, and until his objections, if any, and any evidence he may produce in support of the same, have been heard by an officer duly appointed in that behalf and have been considered by the [1][Provincial Government].

Power to assume management of forests.

36. (1) In case of neglect of, or wilful disobedience to, any regulation or prohibition under section 35, or if the purposes of any work to be constructed under that section so require, the [1][Provincial Government] may, after notice in writing to the owner of such forest or land and after considering his objections, if any, place the same under the control of a Forest-officer, and may declare that all or any of the provisions of this Act relating to reserved forests shall apply to such forest or land.

(2) The net profits, if any, arising from the management of such forest or land shall be paid to the said owner.

Expropriation of forest in certain cases.

37. (1) In any case under this Chapter in which the [1][Provincial Government] considers that, in lieu of placing the forest or land under the control of a Forest-officer, the same should be acquired for public purposes, the [1][Provincial Government] may proceed to acquire it in the manner provided by the Land Acquisition Act, 1894. I of 189[4]

(2) The owner of any forest or land comprised in any notification under section 35 may, at any time not less than three or more than twelve years from the date thereof, require that such forest or land shall be acquired for public purposes, and the [1][Provincial Government] shall acquire such forest or land accordingly.

Protection of forests at request of owners.

38. (1) The owner of any land or, if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to at least two-thirds thereof may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector their desire—

(a) that such land be managed on their behalf by the Forest-officer as a reserved or a protected forest on such terms as may be mutually agreed upon ; or

(b) that all or any of the provisions of this Act be applied to such land.

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[1] Subs. by the A. O. for "L. G."

(*Chapter V.—Of the Control over Forests and Lands not being the Property of Government. Chapter VI.—Of the Duty on Timber and other Forest-produce.*)

(2) In either case, the [1][Provincial Government] may, by notification in the [2][Official Gazette], apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

CHAPTER VI.

OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE.

39. (*1*) The [1][Central Government] may levy a duty in such manner, at such places and at such rates as it may declare by notification in the [2][Official Gazette] on all timber or other forest-produce— [illegible]

(*a*) which is produced in British India, and in respect of which [3][the Crown] has any right;

(*b*) which is brought from any place outside British India.

[4]* * * * * * *

(*2*) In every case in which such duty is directed to be levied *ad valorem*, the [1][Central Government] may fix by like notification the value on which such duty shall be assessed.

(*3*) All duties on timber or other forest-produce which, at the time when this Act comes into force in any territory, are levied therein under the authority of the [1][Provincial Government], shall be deemed to be and to have been duly levied under the provisions of this Act.

[5][(*4*) Notwithstanding anything in this section, the Provincial Government may, until provision to the contrary is made by the Central Legislature, continue to levy any duty which it was lawfully levying before the commencement[6] of Part III of the Government of India Act, 1935, under this section as then in force:

Provided that nothing in this sub-section authorises the levy of any duty which as between timber or other forest-produce of the Province and similar produce of the locality outside the Province, discriminates in favour of the former, or which, in the case of timber or other forest-produce of localities outside the Province, discriminates between timber or other forest-produce of one locality and similar timber or other forest-produce of another locality.]

40. Nothing in this Chapter shall be deemed to limit the amount, if any, chargeable as purchase money or royalty on any timber or other forest-produce, although the same is levied on such timber or produce while in transit, in the same manner as duty is levied. [handwritten: shall not apply to purchase money or royalty]

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[1] Subs. by the A. O. for "L. G."

[illegible]

[illegible] Act, 1915.

CHAPTER VII.

OF THE CONTROL OF TIMBER AND OTHER FOREST-PRODUCE IN TRANSIT.

Power to make rules to regulate transit of forest produce.

41. (*1*) The control of all rivers and their banks as regards the floating of timber, as well as the control of all timber and other forest-produce in transit by land or water, is vested in the [1][Provincial Government], and it may make rules to regulate the transit of all timber and other forest-produce.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may—

(*a*) prescribe the routes by which alone timber or other forest-produce may be imported, exported or moved into, from or within [2][the Province];

(*b*) prohibit the import or export or moving of such timber or other produce without a pass from an officer duly authorised to issue the same, or otherwise than in accordance with the conditions of such pass;

(*c*) provide for the issue, production and return of such passes and for the payment of fees therefor;

(*d*) provide for the stoppage, reporting, examination and marking of timber or other forest-produce in transit, in respect of which there is reason to believe that any money is payable to [3][the Crown] on account of the price thereof, or on account of any duty, fee, royalty or charge due thereon, or, to which it is desirable for the purposes of this Act to affix a mark;

(*e*) provide for the establishment and regulation of depôts to which such timber or other produce shall be taken by those in charge of it for examination, or for the payment of such money, or in order that such marks may be affixed to it; and the conditions under which such timber or other produce shall be brought to, stored at and removed from such depôts;

(*f*) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest-produce, and the throwing of grass, brushwood, branches or leaves into any such river or any act which may cause such river to be closed or obstructed;

(*g*) provide for the prevention or removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person whose acts or negligence necessitated the same;

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "British India".
[3] Subs. by the A. O. for "Govt."

(*h*) prohibit absolutely or subject to conditions, within specified local limits, the establishment of saw pits, the converting, cutting, burning, concealing or making of timber, the altering or effacing of any marks on the same, or the possession or carrying of marking hammers or other implements used for marking timber,

(*i*) regulate the use of property marks for timber, and the registration of such marks, prescribe the time for which such registration shall hold good, limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration

(*3*) The [1][Provincial Government] may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area

[2][**41A.** Notwithstanding anything in section 41, the Central Government may make rules to prescribe the route by which alone timber or other forest-produce may be imported, exported or moved into or from British India across any customs frontier[3] as defined by the Central Government, and any rules made under section 41 shall have effect subject to the rules made under this section.] **Powers of Central Government as to movements of timber across customs frontiers.**

42. (*1*) The [1][Provincial Government] may by such rules prescribe as penalties for the contravention thereof imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both *Penalty for breach of rules made under section 41*

(*2*) Such rules may provide that penalties which are double of those mentioned in sub section (*1*) may be inflicted in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or where the offender has been previously convicted of a like offence

43. The [4][Crown] shall not be responsible for any loss or damage which may occur in respect of any timber or other forest produce while at a depot established under a rule made under section 41, or while detained elsewhere, for the purposes of this Act, and no Forest officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently **Crown and Forest-officers not liable for damage to forest-produce at depot.**

44. In case of any accident or emergency involving danger to any property at any such depot, every person employed at such depot, whether by the [4][Crown] or by any private person, shall render assistance to any Forest-officer or Police officer demanding his aid in averting such danger or securing such property from damage or loss **All persons bound to aid in case of accident at depot.**

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[1] Subs. by the A O for "L. G"

[2] Ins. by the A O

[3] For notification defining the customs frontiers of British India, see Gazette of India, Extraordinary, dated 1st April, 1937 p 433

[4] Subs. by the A. O for "Govt."

CHAPTER VIII.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly.

45. (*1*) All timber found adrift, beached, stranded or sunk;

all wood or timber bearing marks which have not been registered in accordance with the rules made under section 41, or on which the marks have been obliterated, altered or defaced by fire or otherwise; and

in such areas as the [1][Provincial Government] directs, all unmarked wood and timber;

shall be deemed to be the property of Government, unless and until any person establishes his right and title thereto, as provided in this Chapter.

(*2*) Such timber may be collected by any Forest-officer or other person entitled to collect the same by virtue of any rule made under section 51, and may be brought to any depôt which the Forest-officer may notify as a depôt for the reception of drift timber.

(*3*) The [1][Provincial Government] may, by notification in the [2][Official Gazette], exempt any class of timber from the provisions of this section.

Notice to claimants of drift timber.

46. Public notice shall from time to time be given by the Forest-officer of timber collected under section 45. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than two months from the date of such notice, a written statement of such claim.

Procedure on claim preferred to such timber.

47. (*1*) When any such statement is presented as aforesaid, the Forest-officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

(*2*) If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Courts, and retain the timber pending the receipt of an order from any such Court for its disposal.

(*3*) Any person whose claim has been rejected under this section may, within three months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any compensation or costs against the [3][Crown], or against any Forest-officer, on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

(*4*) No such timber shall be subject to process of any Civil, Criminal or Revenue Court until it has been delivered, or a suit has been brought, as provided in this section.

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "local official Gazette".
[3] Subs. by the A. O. for "Govt."

(*Chapter VIII.—Of the Collection of Drift and Stranded Timber. Chapter IX.—Penalties and Procedure.*)

48. If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period fixed by the notice issued under section 46, or on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period fixed by section 47, the ownership of such timber shall vest in the Government, or, when such timber has been delivered to another person under section 47, in such other person free from all encumbrances not created by him. Disposal of unclaimed timber.

49. The [1][Crown] shall not be responsible for any loss or damage which may occur in respect of any timber collected under section 45, and no Forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously or fraudulently. Crown and its officers not liable for damage to such timber.

50. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest-officer or other person entitled to receive it such sum on account thereof as may be due under any rule made under section 51. Payments to be made by claimant before timber is delivered to him.

51. (*1*) The [2][*Provincial Government*] *may make rules to regulate the* following matters, namely:— Power to make rules and prescribe penalties.

(*a*) the salving, collection and disposal of all timber mentioned in section 45;

(*b*) the use and registration of boats used in salving and collecting timber;

(*c*) the amounts to be paid for salving, collecting, moving, storing or disposing of such timber; and

(*d*) the use and registration of hammers and other instruments to be used for marking such timber.

(*2*) The [2][Provincial Government] may prescribe, as penalties for the contravention of any rules made under this section, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

CHAPTER IX.

PENALTIES AND PROCEDURE.

52. (*1*) When there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce, together with all tools, boats, carts or cattle used in committing any such offence, may be seized by any Forest-officer or Police-officer. Seizure of property liable to confiscation.

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[1] Subs. by the A. O. for "Govt."
[2] Subs. by the A. O. for "L. G."

(*Chapter IX.—Penalties and Procedure.*)

(*2*) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made:

Provided that, when the forest-produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

Power to release property seized under section 52.

53. Any Forest-officer of a rank not inferior to that of a Ranger who, or whose subordinate, has seized any tools, boats, carts or cattle under section 52, may release the same on the execution by the owner thereof of a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

Procedure thereupon.

54. Upon the receipt of any such report, the Magistrate shall, with all convenient despatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law.

Forest-produce, tools, etc., when liable to confiscation.

55. (*1*) All timber or forest-produce which is not the property of Government and in respect of which a forest-offence has been committed, and all tools, boats, carts and cattle used in committing any forest-offence, shall be liable to confiscation.

(*2*) Such confiscation may be in addition to any other punishment prescribed for such offence.

Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.

56. When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken charge of by a Forest-officer, and, in any other case, may be disposed of in such manner as the Court may direct.

Procedure when offender not known, or cannot be found.

57. When the offender is not known or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Forest-officer, or to be made over to the person whom the Magistrate deems to be entitled to the same:

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

Procedure as to perishable property seized under section 52.

58. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

Appeal from orders under section 55,

59. The officer who made the seizure under section 52, or any of his official superiors, or any person claiming to be interested in the property so seized,

(*Chapter IX.—Penalties and Procedure.*)

may, within one month from the date of any order passed under section 55, section 56 or section 57, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final. section 56 or section 57.

60. When an order for the confiscation of any property has been passed under section 55 or section 57, as the case may be, and the period limited by section 59 for an appeal from such order has elapsed, and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all incumbrances. Property when to vest in Government.

61. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the [1][Provincial Government] from directing at any time the immediate release of any property seized under section 52. Saving of power to release property seized.

62. Any Forest-officer or Police officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both. Punishment for wrongful seizure.

63. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code,— Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks.

(*a*) knowingly counterfeits upon any timber or standing tree a mark used by Forest officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person; or

(*b*) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest officer; or

(*c*) alters, moves, destroys or defaces any boundary mark of any forest or waste-land to which the provisions of this Act are applied,

shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

64. (*1*) Any Forest-officer or Police officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards. Power to arrest without warrant.

(*2*) Every officer making an arrest under this section shall, without unnecessary delay and subject to the provisions of this Act as to release on bond, take or send the person arrested before the Magistrate having jurisdiction in the case, or to the officer in charge of the nearest police-station.

(*3*) Nothing in this section shall be deemed to authorise such arrest for any act which is an offence under Chapter IV unless such act has been prohibited under clause (*c*) of section 30.

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[1] Subs. by the A. O. for "L. G."

(*Chapter IX.—Penalties and Procedure.*)

Power to release on a bond a person arrested.

65. Any Forest-officer of a rank not inferior to that of a Ranger, who, or whose subordinate, has arrested any person under the provisions of section 64, may release such person on his executing a bond to appear, if and when so required, before the Magistrate having jurisdiction in the case, or before the officer in charge of the nearest police-station.

Power to prevent commission of offence.

66. Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Power to try offences summarily.

67. The District Magistrate or any Magistrate of the first class specially empowered in this behalf by the [1][Provincial Government] may try summarily, under the Code of Criminal Procedure, 1898, any forest-offence punishable V of 18 with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees, or both.

Power to compound offences.

68. (*1*) The [1][Provincial Government] may, by notification in the [2][Official Gazette], empower a Forest-officer—

(*a*) to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence, other than an offence specified in section 62 or section 63, a sum of money by way of compensation for the offence which such person is suspected to have committed, and

(*b*) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(*2*) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property.

(*3*) A Forest-officer shall not be empowered under this section unless he is a Forest-officer of a rank not inferior to that of a Ranger and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under clause (*a*) of sub-section (*1*) shall in no case exceed the sum of fifty rupees.

Presumption that forest-produce belongs to Government.

69. When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

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[1] Subs. by the A. O. for "L. G."

[2] Subs. by the A. O. for "local official Gazette".

CHAPTER X

CATTLE TRESPASS

70. Cattle trespassing in a reserved forest or in any portion of a protected forest which has been lawfully closed to grazing shall be deemed to be cattle doing damage to a public plantation within the meaning of section 11 of the Cattle-trespass Act, 1871, and may be seized and impounded as such by any Forest-officer or Police-officer. Cattle-trespass Act, 1871, to apply.

71. The [1][Provincial Government] may, by notification in the [2][Official Gazette], direct that, in lieu of the fines fixed under section 12 of the Cattle-trespass Act, 1871, there shall be levied for each head of cattle impounded under section 70 of this Act such fines as it thinks fit, but not exceeding the following, that is to say:— Power to alter fines fixed under that Act.

For each Elephant	ten rupees.
For each buffalo or camel	two rupees.
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer	one rupee.
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid	eight annas.

CHAPTER XI

OF FOREST-OFFICERS

72. (*1*) The [1][Provincial Government] may invest any Forest-officer with all or any of the following powers, that is to say:— Provincial Government may invest Forest-officers with certain powers.

(*a*) power to enter upon any land and to survey, demarcate and make a map of the same ;

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents and material objects ;

(*c*) power to issue a search-warrant under the Code of Criminal Procedure, 1898 ; and

(*d*) power to hold an inquiry into forest-offences and, in the course of such inquiry, to receive and record evidence.

(*2*) Any evidence recorded under clause (*d*) of sub-section (*1*) shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

73. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code. Forest-officers deemed public servants.

[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "local official Gazette".

Indemnity for acts done in good faith.

74. No suit shall lie against any public servant for anything done by him in good faith under this Act.

Forest-officers not to trade.

75. Except with the permission in writing of the [1][Provincial Government], no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in or outside British India.

CHAPTER XII.

SUBSIDIARY RULES.

Additional powers to make rules.

76. The [1][Provincial Government] may make rules—

(*a*) to prescribe and limit the powers and duties of any Forest-officer under this Act;

(*b*) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscation under this Act;

(*c*) for the preservation, reproduction and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons; and

(*d*) generally, to carry out the provisions of this Act.

Penalties for breach of rules.

77. Any person contravening any rule under this Act, for the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to one month, or fine which may extend to five hundred rupees, or both.

Rules when to have force of law.

78. All rules made by the [1][Provincial Government] under this Act shall be published in the [2][Official Gazette], and shall thereupon, so far as they are consistent with this Act, have effect as if enacted therein.

CHAPTER XIII.

MISCELLANEOUS.

Persons bound to assist Forest-officers and Police-officers.

79. (*1*) Every person who exercises any right in a reserved or protected forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest, and every person who is employed by any such person in such forest, and

every person in any village contiguous to such forest who is employed by the [3][Crown], or who receives emoluments from the [3][Crown] for services to be performed to the community,

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "local official Gazette".
[3] Subs. by the A. O. for "Govt."

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall forthwith take steps, whether so required by any Forest-officer or Police officer or not —

(*a*) to extinguish any forest fire in such forest of which he has knowledge or information,

(*b*) to prevent by any lawful means in his power any fire in the vicinity of such forest of which he has knowledge or information from spreading to such forest,

and shall assist any Forest-officer or Police officer demanding his aid—

(*c*) in preventing the commission in such forest of any forest-offence, and

(*d*) when there is reason to believe that any such offence has been committed in such forest in discovering and arresting the offender

(*2*) Any person who being bound so to do without lawful excuse (the burden of proving which shall lie upon such person) fails—

(*a*) to furnish without unnecessary delay to the nearest Forest-officer or Police officer any information required by sub section (*1*),

(*b*) to take steps as required by sub section (*1*) to extinguish any forest fire in a reserved or protected forest,

(c) to prevent as required by sub section (*1*), any fire in the vicinity of such forest from spreading to such forest, or

(*d*) to assist any Forest officer or Police officer demanding his aid in preventing the commission in such forest of any forest-offence, or, when there is reason to believe that any such offence has been committed in such forest in discovering and arresting the offender,

shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees or with both.

Management of forests the joint property of Government and other persons.

80. (*1*) If the Government and any person be jointly interested in any forest or waste land or in the whole or any part of the produce thereof the [1][Provincial Government] may either—

(*a*) undertake the management of such forest, waste land or produce, accounting to such person for his interest in the same, or

(*b*) issue such regulations for the management of the forest, waste land or produce by the person so jointly interested as it deems necessary for the management thereof and the interests of all parties therein

(*2*) When the [1][Provincial Government] undertakes under clause (*a*) of sub section (*1*) the management of any forest, waste land or produce, it may,

[1] Subs. by the A O for L G

Indemnity for acts done in good faith.

74. No suit shall lie against any public servant for anything done by him in good faith under this Act.

Forest-officers not to trade.

75. Except with the permission in writing of the [1][Provincial Government], no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in or outside British India.

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(a) to prescribe and limit the powers and duties of any Forest-officer under this Act;

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(c) for the preservation, reproduction and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons; and

(d) generally, to carry out the provisions of this Act.

Penalties for breach of rules.

77. Any person contravening any rule under this Act, for the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to one month, or fine which may extend to five hundred rupees, or both.

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every person in any village contiguous to such forest who is employed by the [3][Crown], or who receives emoluments from the [3][Crown] for services to be performed to the community,

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[2] Subs. by the A. O. for "local official Gazette".
[3] Subs. by the A. O. for "Govt."

(*Chapter XIII.—Miscellaneous.*)

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall forthwith take steps, whether so required by any Forest-officer or Police-officer or not,—

(*a*) to extinguish any forest fire in such forest of which he has knowledge or information;

(*b*) to prevent by any lawful means in his power any fire in the vicinity of such forest of which he has knowledge or information from spreading to such forest,

and shall assist any Forest-officer or Police-officer demanding his aid—

(*c*) in preventing the commission in such forest of any forest-offence; and

(*d*) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

(2) Any person who, being bound so to do, without lawful excuse (the burden of proving which shall lie upon such person) fails—

(*a*) to furnish without unnecessary delay to the nearest Forest-officer or Police-officer any information required by sub-section (*1*);

(*b*) to take steps as required by sub-section (*1*) to extinguish any forest fire in a reserved or protected forest;

(*c*) to prevent, as required by sub-section (*1*), any fire in the vicinity of such forest from spreading to such forest; or

(*d*) to assist any Forest-officer or Police-officer demanding his aid in preventing the commission in such forest of any forest-offence, or, when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

80. (*1*) If the Government and any person be [illegible] in any forest or waste-land, or in the whole or any part of the [illegible] the [1][Provincial Government] may either— [illegible]

(*a*) undertake the management of [illegible] accounting to such person for [illegible]

(*b*) issue such regulations for the [illegible] land or produce by the [illegible] necessary for the [illegible] parties therein.

(2) When the [1][Provincial [illegible] sub-section (*1*) the management [illegible]

[illegible]

(*Chapter XIII.—Miscellaneous.*)

by notification in the [1][Official Gazette], declare that any of the provisions contained in Chapters II and IV shall apply to such forest, waste-land or produce, and thereupon such provisions shall apply accordingly.

Failure to perform service for which a share in produce of Government forest is enjoyed.

81. If any person be entitled to a share in the produce of any forest which is the property of Government or over which the Government has proprietary rights or to any part of the forest-produce of which the Government is entitled, upon the condition of duly performing any service connected with such forest, such share shall be liable to confiscation in the event of the fact being established to the satisfaction of the [2][Provincial Government] that such service is no longer so performed:

Provided that no such share shall be confiscated until the person entitled thereto, and the evidence, if any, which he may produce in proof of the due performance of such service, have been heard by an officer duly appointed in that behalf by the [2][Provincial Government].

Recovery of money due to Government.

82. All money payable to the Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

Lien on forest-produce for such money.

83. (*1*) When any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest-officer until such amount has been paid.

(*2*) If such amount is not paid when due, the Forest-officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

(*3*) The surplus, if any, if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to His Majesty.

Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act, 1894.

84. Whenever it appears to the [2][Provincial Government] that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of section 4 of the Land Acquisition Act, 1894. I of 1

Recovery of penalties due under bond.

85. When any person, in accordance with any provision of this Act, or in compliance with any rule made thereunder, binds himself by any bond or instrument to perform any duty or act, or covenants by any bond or instrument that he, or that he and his servants and agents will abstain from any act, the whole sum mentioned in such bond or instrument as the amount to

[1] Subs. by the A. O. for "local official Gazette."
[2] Subs. by the A. O. for "L. G."

be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land revenue

[1][85A. As from the commencement[2] of Part III of the Government of India Act, 1935, nothing in this Act shall authorise any Provincial Government to make any order or do any other thing in relation to any Crown property not vested in His Majesty for the purposes of that Province or otherwise to prejudice any Crown rights, without the consent of the Government or authority concerned]

Saving for rights of Central Government

86. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof

Repeals.

THE SCHEDULE

(*See section 86*)

ENACTMENTS REPEALED

Year 1	No 2	Short title 3	Extent of repeal 4
1878	VII	The Indian Forest Act, 1878	So much as has not already been repealed
1890	V	The Forest Act, 1890	Ditto
1891	XII	The Amending Act, 1891	So much of Part I of Schedule II as relates to the Indian Forest Act, 1878
1901	V	The Indian Forest (Amendment) Act, 1901	So much as has not already been repealed
1911	XV	The Indian Forest (Amendment) Act, 1911	Ditto
1914	X	The Repealing and Amending Act, 1914	So much of the Second Schedule as relates to the Indian Forest Act, 1878, the Forest Act, 1890, and the Indian Forest (Amendment) Act, 1901
1918	I	The Indian Forest (Amendment) Act, 1918	The whole
1920	XXXVIII	The Devolution Act, 1920.	So much of Schedule I, Part I, as relates to the Indian Forest Act, 1878

[1] Ins. by the A. O

[2] *I.e.*, the 1st April, 1937.

THE INDIAN LIGHTHOUSE ACT, 1927.

CONTENTS.

ACT NO XVII OF 1927 [1]

[*21st September, 1927*]

An Act to consolidate and amend the law relating to the provision, maintenance and control of lighthouses by the Government in British India

WHEREAS it is expedient to consolidate and amend the law relating to the provision, maintenance and control of lighthouses by the Government in British India, It is hereby enacted as follows —

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Lighthouse Act, 1927

(*2*) It extends to the whole of British India

(*3*) It shall come into force on such date[2] as the [3][Central Government] may, by notification in the [4][Official Gazette], appoint

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Customs-collector" means an officer of customs exercising the powers of a Customs collector under the Sea Customs Act, 1878, (of 1878) and includes any person appointed by the [3][Central Government] to discharge the functions of a Customs-collector under this Act,

(*b*) "district" means an area defined as a district for the purposes of this Act under section 3,

(*c*) "general lighthouse" means any lighthouse which the [3][Central Government] may, by notification in the [4][Official Gazette], declare to be a general lighthouse for the purposes of this Act,

(*d*) "lighthouse" includes any light vessel, fog signal, buoy, beacon, or any mark, sign or apparatus exhibited or used for the guidance of ships,

(*e*) "local lighthouse" means any lighthouse which is not a general lighthouse,

(*f*) "local lighthouse authority" means a [5][Provincial Government], local authority or other person having the superintendence and management of a local lighthouse,

(*g*) "owner" includes any part-owner, charterer, or mortgagee in possession and any agent to whom a ship is consigned,

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[illegible] V p 53, and for [illegible]

THE INDIAN LIGHTHOUSE ACT, 1927.

CONTENTS.

PRELIMINARY.

(Preliminary)

Act No. XVII of 1927.[1]

[*21st September, 1927.*]

An Act to consolidate and amend the law relating to the provision, maintenance and control of lighthouses by the Government in British India

Whereas it is expedient to consolidate and amend the law relating to the provision, maintenance and control of lighthouses by the Government in British India, It is hereby enacted as follows :—

Preliminary

1. (*1*) This Act may be called the Indian Lighthouse Act, 1927. Short title, extent and commencement.

(*2*) It extends to the whole of British India.

(*3*) It shall come into force on such date[2] as the [3][Central Government] may, by notification in the [4][Official Gazette], appoint.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "Customs collector" means an officer of customs exercising the
1878 powers of a Customs collector under the Sea Customs Act, 1878, and includes any person appointed by the [3][Central Government] to discharge the functions of a Customs-collector under this Act ;

(*b*) "district" means an area defined as a district for the purposes of this Act under section 3 ;

(*c*) "general lighthouse" means any lighthouse which the [3][Central Government] may, by notification in the [4][Official Gazette], declare to be a general lighthouse for the purposes of this Act ;

(*d*) "lighthouse" includes any light vessel, fog signal, buoy, beacon, or any mark, sign or apparatus exhibited or used for the guidance of ships ;

(*e*) "local lighthouse" means any lighthouse which is not a general lighthouse ;

(*f*) "local lighthouse authority" means a [5][Provincial Government], local authority or other person having the superintendence and management of a local lighthouse ;

(*g*) "owner" includes any part owner, charterer, or mortgagee in possession and any agent to whom a ship is consigned ;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1927, Pt. V, p. 53, and for Report of Select Committee, *see ibid.*, p. 215.

[2] 1st April, 1929, *see* Gazette of India, 1929, Part I, p. 95.

[3] Subs. by the A. O. for "G. G. in C."

[4] Subs. by the A. O. for "Gazette of India".

[5] Subs. by the A. O. for "L. G."

(*Preliminary. General Lighthouses.*)

(*h*) "port" means any port, as defined in the Indian Ports Act, 1908, to which that Act extends; and XV o

(*i*) words and expressions used in this Act and not otherwise defined have the same meanings respectively as in the Indian Merchant Shipping Act, 1923. XXI

Appointment of officers.

3. The [1][Central Government] may, by notification in the [2][Official Gazette],—

(*a*) define areas to be districts for the purposes of this Act;

(*b*) appoint a person to be the Superintendent of Lighthouses in each district;

(*c*) appoint a person to be the Chief Inspector of Lighthouses in British India; and

(*d*) appoint persons to be Inspectors of Lighthouses.

Advisory Committees.

4. (*1*) The [1][Central Government] shall appoint a Central Advisory Committee and shall consult it in regard to—

(*a*) the erection or position of lighthouses or of any works appertaining thereto;

(*b*) additions to, or the alteration or removal of, ligthouses;

(*c*) the variation of the character of any lighthouse or of the mode of use thereof;

(*d*) the cost of any proposals relating to lighthouses; or

(*e*) the making or alteration of any rules or rates of dues under this Act.

(*2*) The [1][Central Government] may, if [3][it] thinks fit, appoint an Advisory Committee for any district for the purpose of advising in regard to any of the matters specified in sub-section (*1*) in so far as the interests of the district are affected thereby.

(*3*) Advisory Committees shall consist of persons representing interests affected by this Act or having special knowledge of the subject-matter thereof.

GENERAL LIGHTHOUSES.

Management of general lighthouses by the Central Government and delegation of management.

5. (*1*) The superintendence and management of all general lighthouses are vested in the [1][Central Government].

(*2*) The [1][Central Government] may require any local lighthouse authority to undertake the superintendence and management of any general lighthouse situated in or adjacent to the local limits within which the authority exercises its powers, and shall pay to the authority such sums to defray the cost of superintendence and management as [3][the Central Government] may determine.

[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "[illegible] India".
[3] Subs. by the A. O. for "[illegible]

(Local Lighthouses)

LOCAL LIGHTHOUSES

6. (*1*) The Chief Inspector of Lighthouses may, at any time, and any Superintendent or Inspector of Lighthouses may, if authorised in this behalf by a general or special order in writing of the [1][Central Government], enter upon and inspect any local lighthouse and make such inquiries in respect thereof or of the management thereof as he thinks fit

Power to inspect local lighthouses.

(*2*) Every person having the charge of, or concerned in the management of, any lighthouse shall be bound to furnish to any officer authorised by or under sub section (*1*) to inspect the lighthouse all such information regarding the same as the officer may require

(*3*) Every local lighthouse authority shall furnish to the [1][Central Government] all such returns and other information in respect of the lighthouses under its supervision and management, or of any of them, as [2][the Central Government] may require

7. (*1*) If, after an inspection under section 6 or such other inquiry as [2][it] thinks fit, the [1][Central Government] is satisfied that a direction under this sub section is necessary or expedient for the safety, or otherwise in the interests, of shipping, [2][it] may direct any local lighthouse authority—

Control of local lighthouses by the Central Government

(*a*) to remove or discontinue or to refrain from moving or discontinuing any lighthouse under its superintendence and management or to make or refrain from making any variation in the character or mode of use of any such lighthouse, or

(*b*) to erect, place or maintain, or to refrain from erecting, placing or maintaining, any lighthouse within the local limits within which the local lighthouse authority exercises its powers

(*2*) A local lighthouse authority shall not erect, place, remove or discontinue any lighthouse or vary the character or mode of use of any lighthouse, unless it has given to the [1][Central Government] at least one month's notice in writing of its intention so to do

Provided that, in cases of emergency, a local lighthouse authority may take such action as it deems necessary and shall give immediate notice of the same to the [1][Central Government] and, so far as is possible, to all shipping approaching or in the vicinity of the lighthouse

(*3*) If a local lighthouse authority—

(*a*) fails to comply with any direction made under sub section (*1*), or

(*b*) fails to exercise or perform, or exercises or performs in an improper, inefficient or unsuitable manner, any power or duty relating to the superintendence or management of lighthouses conferred or imposed upon it by or under any law for the time being in force, or

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[1] Subs. by the A. O for 'G G in C.'
[2] Subs. by the A. O for 'he'

(*Local Lighthouses. Light-dues.*)

(c) fails to make adequate financial provision for the performance of any such duty,

the [1][Central Government] may, by order in writing, require the local lighthouse authority to comply with the direction, or to make arrangement to [2][the satisfaction of the Central Government] for the proper exercise of the power or performance of the duty, or to make financial provision to [2][the satisfaction of the Central Government] for the performance of the duty, as the case may be, within suhc period as [3][the Central Government] may specify.

(*4*) If the local lighthouse authority fails to comply with an order made under sub-section (*3*) within the specified period or within such further time as the [1][Central Government] may allow, the [1][Central Government] may exercise the power or perform the duty or make the requisite financial provision, as the case may be, and the local lighthouse authority shall be liable to repay to the [1][Central Government] any expenditure incurred by [4][it] in so doing.

Management of local lighthouses by the Central Government.

8. The [1][Central Government] may, at the request of a local lighthouse authority, undertake the superintendence and management of any local lighthouse on its behalf, and the local lighthouse authority shall pay to the [1][Central Government] such sums to defray the cost of superintendence and management as may be agreed.

LIGHT-DUES.

Levy and collection of light-dues.

9. For the purpose of providing or maintaining or of providing and maintaining lighthouses for the benefit of ships voyaging to or from British India or between ports in British India, the [1][Central Government] shall, subject to the provisions of this Act, cause light-dues to be levied and collected in respect of every ship arriving at or departing from any port in British India.

Rates of light-dues leviable.

10. (*1*) The [1][Central Government] may, by notification in the [5][Official Gazette], prescribe rates, not exceeding two annas per ton, at which light-dues shall be payable, and may prescribe different rates for different classes of ships, or for ships of the same class when in use for different purposes or in different circumstances.

(*2*) Light-dues payable in respect of a ship shall be paid by the owner or master of the ship on its arrival at, and on its departure from, any port in British India :

Provided that, if light-dues have been paid in accordance with the provisions of this Act in respect of any ship, no further dues shall become payable in respect of that ship for a period of thirty days from the date on which the dues so paid became payable.

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[1] Subs. by the A. O. for " G. G. in C."
[2] Subs. by the A. O. for " his satisfaction ".
[3] Subs. by the A. O. for " he ".
[4] Subs. by the A. O. for " him ".
[5] Subs. by the A. O. for " Gazette of India ".

(*Light-dues*)

(3) An order under sub section (*1*) imposing abolishing or varying light-dues shall not take effect till the expiration of thirty days from the day on which the order was notified in the [1][Official Gazette]

Receipts for light-dues.

11. Light-dues shall be paid to the Customs-collector who shall grant to the person paying the same a receipt in writing specifying—

(*a*) the port at which the dues have been paid,

(*b*) the amount of the payment,

(*c*) the date on which the dues became payable, and

(*d*) the name, tonnage and other proper description of the ship in respect of which the payment is made

Ascertainment of tonnage.

12. (*1*) For the purpose of the levy of light-dues, a ship's tonnage shall be reckoned as under the Merchant Shipping Acts for dues payable on a ship's
58 tonnage, with the addition required under section 85 of the Merchant Shipping
60 Act, 1894, with respect to deck cargo

(2) In order to ascertain the tonnage of any ship for the purpose of levying light dues, the Customs collector may—

(*a*) if the ship is registered under any law for the time being in force in British India or under the law of any foreign country in respect of which an Order in Council has been made under section 84
58 of the Merchant Shipping Act, 1894, that ships of that country
60 shall be deemed to be of the tonnage denoted in their certificates of registry or other national papers (any such ship being hereafter in this section referred to as a registered ship), require the owner or master or other person having possession of the ship's register or other papers denoting her tonnage to produce the same for inspection and, if such owner, master or other person refuses or neglects to produce the register or papers, as the case may be, or otherwise to satisfy the Customs collector as to the tonnage of the ship, cause the ship to be measured and the tonnage to be ascertained, or

(*b*) if the ship is not a registered ship and the owner or master fails to satisfy the Customs-collector as to the true tonnage thereof according to the mode of measurement prescribed by the law for the time being in force for regulating the measurement of registered ships, cause the ship to be measured and the tonnage thereof to be ascertained according to such mode

(3) If any person refuses or neglects to produce any register or other papers or otherwise to satisfy the Customs collector as to the true tonnage of any ship when required to do so under this section, such person shall be liable to pay the expenses of the measurement of the ship and of the ascertainment of the tonnage, and, if the ship is a registered ship, shall further, on conviction

[1] Subs. by the A O for "Gazette of India"

(Light-dues.)

by a Presidency Magistrate or Magistrate of the first class having jurisdiction in the port where the ship lies or in any port to which she may proceed, be punishable with fine which may extend to one thousand rupees.

Recovery of light-dues, expenses and costs.

13. *(1)* If the owner or master of any ship refuses or neglects to pay to the Customs-collector on demand the amount of any light-dues or expenses payable under this Act in respect of the ship, the Customs-collector may seize the ship and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount of the dues or expenses together with the costs of the seizure and detention, is paid.

(2) If any part of such dues, expenses or costs remains unpaid after the expiry of five days following the date of the seizure, the Customs-collector may cause the ship or other thing seized to be sold, and with the proceeds of the sale may satisfy the dues, expenses or costs remaining unpaid, together with the costs of the sale, and shall repay the surplus, if any, to the person by whom the same were payable.

Refusal of port-clearance.

14. The officer whose duty it is to grant a port-clearance for any ship shall not grant the port-clearance until the amount of all light-dues, expenses and costs payable in respect of the ship under this Act and of any fines imposed thereunder has been paid, or until security for the payment thereof has been given to his satisfaction.

Determination of disputes as to liability for payment.

15. If any dispute arises as to whether light-dues, expenses or costs are payable in respect of any ship under this Act or as to the amount of such dues, expenses or costs, the dispute shall, on application made in this behalf by either of the disputing parties, be heard and determined by a Presidency Magistrate or Magistrate of the first class having jurisdiction at the place where the dispute arises, and the decision of such Magistrate shall be final.

Light-dues payable at one port recoverable at another.

16. *(1)* If the master of any ship in respect of which any light-dues are payable at any port causes the ship to leave such port without having paid the same, the Customs-collector at that port may by writing require the Customs-collector at any other port in British India to which the ship may proceed or in which she may be to recover the dues remaining unpaid.

(2) Any Customs-collector to whom such a requisition is directed shall proceed to levy such sum as if it were payable under this Act at the port at which he is the Customs-collector, and a certificate by the Customs-collector at the port at which the light-dues first became payable, stating the amount payable, shall be sufficient proof in any proceeding under section 13 or section 15 that such amount is payable.

Penalty for evading payment of light-dues.

17. *(1)* If the owner or master of a ship evades or attempts to evade the payment of any light-dues, expenses or costs payable in respect of the ship under this Act, he shall, on conviction by a Presidency Magistrate or Magistrate of the first class having jurisdiction in any port to which the vessel may proceed or in which she may be found, be punishable with fine which may extend to five times the amount of the sum payable.

(2) In any proceeding before a Magistrate in a prosecution under sub section (*1*), any such certificate as is mentioned in sub section (2) of section 16, stating that the owner or master has evaded such payment, shall be sufficient proof of the evasion, unless the owner or master shows to the satisfaction of the Magistrate that the departure of the vessel without payment of the sum was caused by stress of weather, or that there was lawful or reasonable grounds for such departure

18. The following ships shall be exempted from the payment of light-dues under this Act, namely - Exemption from payment of light-dues.

(*a*) any ship belonging to His Majesty [1]* * or to a foreign Prince or State and not carrying cargo or passengers for freight or fares, and

(*b*) any ship of a tonnage of less than fifty tons,

and the [2][Central Government] may, by notification in the [3][Official Gazette], exempt any other ships, or classes of ships, or ships performing specified voyages from such payment, either wholly or to such extent only as may be specified in the notification

19. Where light-dues have been paid in respect of any ship in excess of the amount payable under this Act, no claim to refund of such excess payment shall be admissible, unless it is made within six months from the date of each payment Refund of excess payments.

ACCOUNTS

20 (*1*) The [Central Government] shall cause to be maintained a separate account of all amounts received by way of light-dues, expenses, costs and fines under this Act and of all expenditure incurred for the purposes of this Act, and shall cause such account to be laid before the Central Advisory Committee as soon as possible after the close of each financial year Accounts, etc

(2) The [2][Central Government] shall cause to be laid before the Central Advisory Committee before the close of each financial year a statement of the estimated receipts under, and expenditure for the purposes of, this Act during the forthcoming year

RULES

21. (*1*) The [2][Central Government] may make rules [illegible] this Act to carry into effect the purposes thereof

(2) [illegible]

power, [illegible]

(*a*) the powers and duties of the Chief [illegible] of Superintendents and In[illegible]

[1] The words or the Govt. rep. by the [illegible]
[2] Subs. by the A O for G G in C [illegible]
[3] Subs by the A O for Gazette [illegible]

(*b*) the procedure and conduct of business of Advisory Committees constituted under this Act;

(*c*) the rate of travelling and subsistence allowance payable to members of Advisory Committees; and

(*d*) the period in respect of which and the form in which the separate account referred to in sub-section (*1*) of section 20 shall be kept and the forms in which that account and the statement referred to in sub-section (*2*) of that section shall respectively be presented to the Central Advisory Committee.

REPEALS.

22. [*Repeals.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

THE SCHEDULE.—[*ENACTMENTS REPEALED.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

THE HINDU INHERITANCE (REMOVAL OF DISABILITIES) ACT, 1928.

ACT NO. XII OF 1928.[1]

[*20th September, 1928.*]

An Act to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs, and to remove certain doubts.

WHEREAS it is expedient to amend the Hindu Law relating to exclusion from inheritance of certain classes of heirs, and to remove certain doubts; It is hereby enacted as follows:—

Short title, extent and application.

1. (*1*) This Act may be called the Hindu Inheritance (Removal of Disabilities) Act, 1928.

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall not apply to any person governed by the Dayabhaga School of Hindu Law.

Persons not to be excluded from inheritance or rights in joint-family property.

2. Notwithstanding any rule of Hindu Law or custom to the contrary, no person governed by the Hindu Law, other than a person who is and has been from birth a lunatic or idiot, shall be excluded from inheritance or from any right or share in joint-family property by reason only of any disease, deformity, or physical or mental defect.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1928, Pt. V, p. 51.

3. Nothing contained in this Act shall affect any right which has accrued or any liability which has been incurred before the commencement thereof, or shall be deemed to confer upon any person any right in respect of any religious office or service or of the management of any religious or charitable trust which he would not have had if this Act had not been passed. Saving and exception.

THE HINDU LAW OF INHERITANCE (AMENDMENT) ACT, 1929

ACT No. II OF 1929[1]

[21st February, 1929.]

An Act to alter the order in which certain heirs of a Hindu male dying intestate are entitled to succeed to his estate.

WHEREAS it is expedient to alter the order in which certain heirs of a Hindu male dying intestate are entitled to succeed to his estate; It is hereby enacted as follows:—

1. (1) This Act may be called the Hindu Law of Inheritance (Amendment) Act, 1929. Short title, extent and application.

(2) It extends to the whole of British India including British Baluchistan and the Sonthal Parganas, but it applies only to persons who, but for the passing of this Act, would have been subject to the law of Mitakshara in respect of the provisions herein enacted, and it applies to such persons in respect only of the property of males not held in coparcenary and not disposed of by will.

2. A son's daughter, daughter's daughter, sister, and sister's son shall, in the order so specified, be entitled to rank in the order of succession next after a father's father and before a father's brother: Order of succession of certain heirs.

Provided that a sister's son shall not include a son adopted after the sister's death.

3. Nothing in this Act shall— Savings.

(a) affect any special family or local custom having the force of law; or

(b) vest in a son's daughter, daughter's daughter or sister an estate larger than, or different in kind from, that possessed by a female in property inherited by her from a male according to the school of Mitakshara law by which the male was governed; or

(c) enable more than one person to succeed by inheritance to the estate of a deceased Hindu male which by a customary or other rule of succession descends to a single heir.

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[1] For Statement of Objects and Reasons, see Gazette of India, 19[illegible], Pt. V, p. [illegible]; for Report of Select Committee, see ibid., p. 1[illegible].

THE TRADE DISPUTES ACT, 1929.

CONTENTS.

Act No VII of 1929[1]

[*12th April, 1929*]

An Act to make provision for the investigation and settlement of trade disputes, and for certain other purposes

Whereas it is expedient to make provision for the investigation and settlement of trade disputes, and for certain other purposes hereinafter appearing, It is hereby enacted as follows —

Short title, extent, commencement and duration

1. (*1*) This Act may be called the Trade Disputes Act 1929

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas

(*3*) It shall come into force on such date[2] as the [3][Central Government] may, by notification in the [4][Official Gazette] appoint

[5]* * * * * * *

Interpretations

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Board" means a Board of Conciliation constituted under this Act,

(*b*) "Court" means a Court of Inquiry constituted under this Act,

(*c*) "employer", in the case of any industry, business or undertaking carried on by any department of [6][any Government in British India], means the authority prescribed in this behalf or, where no authority is prescribed, the head of the department,

[(*cc*) "Federal Railway" has the same meaning as in the Government 5, c of India Act, 1935]

(*d*) a person shall be deemed to be "independent" for the purpose of his appointment as the chairman or other member of a Court or a Board if he is unconnected with the dispute with reference to which the Court or the Board is appointed and with any trade or industry directly affected by the dispute,

(*e*) "lock-out" means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him, where such closing, suspension or refusal occurs in consequence of a dispute and is intended for the purpose of compelling those persons, or of aiding another employer in compelling persons employed by him, to accept terms or conditions of or affecting employment,

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 192[illegible] Pt V [illegible]; for Report of Select Committee *see ibid* 19[illegible] Pt V p [illegible]

[2] 8th May, 19[illegible] *see* Gazette of India, Extraordinary dated the [illegible] May 1[illegible]

[3] Subs. by the A O for G G in C.

[4] Subs. by the A O for Gazette of India

[5] Sub-section (*4*) rep by the Trade Disputes (Extending) Act, 1934 (13 of 1934), s 2

[6] Subs. by the A O for the Govt.

[7] Ins. by the A O

(*Reference of Disputes to Courts and Boards.*)

(*f*) " prescribed " means prescribed by rules made under this Act;

(*g*) " public utility service " means—

(*i*) any railway service which [1][in the case of a Federal Railway, the Central Government, and in the case of any other railway, the Provincial Government] may, by notification in the [2][Official Gazette], declare to be a public utility service for the purposes of this Act; or

(*ii*) any postal, telegraph or telephone service; or

(*iii*) any industry, business or undertaking which supplies light or water to the public; or

(*iv*) any system of public conservancy or sanitation;

(*h*) " railway company " means a railway company as defined in section 3 of the Indian Railways Act, 1890; IX of

(*i*) " strike " means a cessation of work by a body of persons employed in any trade or industry acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment;

(*j*) " trade dispute " means any dispute or difference between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of any person; and

(*k*) " workman " means any person employed in any trade or industry to do any skilled or unskilled manual or clerical work for hire or reward, but does not include any person employed in the naval, military or air service of the Crown [3]* * *.

Reference of Disputes to Courts and Boards.

Reference of disputes to Courts or Boards.

3. If any trade dispute exists or is apprehended between an employer and any of his workmen, the [4][Provincial Government] or, where the employer is the head of a department under the control of the [5][Central Government] [6][or is the Federal Railway Authority or a railway company operating a Federal Railway], the [5][Central Government] may, by order in writing,—

(*a*) refer any matters appearing to be connected with or relevant to the dispute to a Court of Inquiry to be appointed by the [4][Provincial Government] or the [5][Central Government], as the case may be; or

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[1] Subs. by the A. O. for " the G. G. in C."

[2] Subs. by the A. O. for " Gazette of India".

[3] The words " or in the Royal Indian Marine Service " rep. by the A. O. and also by the Repealing and Amending Act, 1937 (20 of 1937), s. 3 and Sch. II.

[4] Subs. by the A. O. for " L. G."

[5] Subs. by the A. O. for " G. G. in C."

[6] Subs. by the A. O. for " or is a railway company".

(Reference of Disputes to Courts and Boards. Courts of Inquiry. Boards of Conciliation.)

(b) refer the dispute to a Board of Conciliation to be appointed by the [1][Provincial Government] or the [2][Central Government], as the case may be, for promoting a settlement thereof:

Provided that, where both parties to the dispute apply, whether separately or conjointly, for a reference to a Court, or where both parties apply, whether separately or conjointly, for a reference to a Board, and the authority having the power to appoint is satisfied that the persons applying represent the majority of each party, a Court or a Board, as the case may be, shall be appointed accordingly.

Courts of Inquiry

Constitution of Courts

4. (1) A Court shall consist of an independent chairman and such other independent persons as the appointing authority thinks fit, or may, if such authority thinks fit, consist of one independent person.

(2) A Court, having the prescribed quorum, may act notwithstanding any vacancy in the number of its members other than the chairman.

Duties of Courts.

5. (1) A Court shall, either in public or in private, at its discretion, inquire into the matters referred to it and report thereon to the authority by which the Court was appointed.

(2) A Court may, if it thinks fit, make interim reports.

Boards of Conciliation

Constitution of Boards

6. (1) A Board shall consist of a chairman and two or four other members, as the appointing authority thinks fit, or may, if such authority thinks fit, consist of one independent person.

(2) Where the Board consists of more than one person, the chairman shall be an independent person and the other members shall be either independent persons or persons appointed in equal numbers to represent the parties to the dispute, all persons appointed to represent any party shall be appointed on the recommendation of that party.

Provided that, if any party fails to make the necessary recommendation within the prescribed time, the appointing authority shall select and appoint such persons as it thinks fit to represent that party.

(3) A Board, having the prescribed quorum, may act notwithstanding any vacancy in the number of its members other than the chairman.

Provided that, where a Board includes an equal number of persons representing the parties to the dispute and the services of any such person cease to be available before the Board has completed its work, the authority appointing the Board shall appoint, in the manner specified in sub-section (2), another person to take his place, and the proceedings shall be continued before the Board so re-constituted.

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[1] Subs by the A. O. for "L. G."
[2] Subs by the A. O. for "G. G. in C."

(*Boards of Conciliation. General.*)

Duties of Boards.

7. (*1*) Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same, and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits thereof and the right settlement thereof, and in so doing may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute, and may adjourn the proceedings for any period sufficient in its opinion to allow the parties to agree upon terms of settlement.

(*2*) If a settlement of a dispute is arrived at by the parties thereto after it has been referred to a Board and during the course of the investigation thereof, a memorandum of the settlement shall be drawn up by the Board and signed by the parties, and the Board shall send a report of the settlement, together with the memorandum, to the authority by which the Board was appointed.

(*3*) If no such settlement is arrived at during the course of the investigation, the Board shall, as soon as possible after the close thereof, send a full report regarding the dispute to the authority by which the Board was appointed, setting forth the proceedings and steps taken by the Board for the purpose of ascertaining the facts and circumstances relating to the dispute and of bringing about a settlement thereof, together with a full statement of such facts and circumstances and its findings thereon and the recommendation of the Board for the determination of the dispute.

(*4*) The recommendation of the Board shall deal with each item of the dispute, and shall state in plain language what in the opinion of the Board ought and ought not to be done by the respective parties concerned.

General.

Finality of orders constituting a Court or Board.

8. No order of the [1][Central Government] or of a [2][Provincial Government] appointing any person as a member of a Court or a Board shall be called in question in any manner.

Procedure and powers.

9. (*1*) Courts and Boards shall, subject to the provisions of this Act, follow such procedure as may be prescribed.

(*2*) Courts and Boards shall have the same powers as are vested in Courts under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters :— V of 1908.

(*a*) enforcing the attendance of any person and examining him on oath ;

(*b*) compelling the production of documents and material objects ; and

(*c*) issuing commissions for the examination of witnesses ;

[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "L. G."

and shall have such further powers as may be prescribed, and every inquiry or investigation by a Court or Board shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code 860

10. (*1*) If the services of the chairman or of any other independent member of a Court or Board cease to be available at any time for the purposes of the Court or Board, the appointing authority shall in the case of a chairman, and may in the case of any other member, appoint another independent person to fill the vacancy, and the proceedings shall be continued before the Court or Board so re constituted

Filling of vacancies.

(2) Where the Court or Board consists of one person only and his services cease to be available as aforesaid, the appointing authority shall appoint another independent person in his place, and the proceedings shall be continued before the person so appointed

11. The report of a Court or Board shall be in writing and shall be signed by all the members of the Court or Board

Form of report.

Provided that nothing in this section shall be deemed to prevent any member of a Court or Board from recording a minute of dissent from a report or from any recommendation made therein

12. (*1*) The final and any interim report of a Court or Board, together with any minute of dissent recorded therewith, shall, as soon as possible after its receipt by the authority by which the Court or Board was appointed, be published by that authority in such manner as it thinks fit

Publication of results of inquiry

(2) The said authority may publish or cause to be published from time to time, in such manner as such authority thinks fit, any information obtained, or conclusions arrived at, by the Court or Board as the result or in the course of its inquiry or investigation

13. (*1*) Notwithstanding anything contained in section 12, there shall not be included in any report or publication made or authorised by a Court or Board or the authority appointing a Court or Board any information obtained by the Court or Board in the course of its inquiry or investigation as to any Trade Union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through evidence given before the Court or Board, [1][if the Trade Union, person, firm or company in question has preferred a request to the Court or Board, that such information shall be treated as confidential], nor shall any individual member of the Court or Board or any person concerned in the proceedings before it disclose any such information [2][without the consent in writing of the Secretary of the Trade Union or the person, firm or company in question, as the case may be]

Certain matters to be kept confidential.

[1] Subs by the Trade Disputes (Amendment) Act, 1932 (19 of 1932), s. 2, for "except with the consent in writing of the Secretary of the Trade Union or of the person, firm or company in question"

[2] Subs. by s. 2, ib id., for "without such consent"

(General. Special provision regarding Public Utility Services.)

(2) If any member of a Court or Board or any person present at or concerned in the proceedings before a Court or Board [1][wilfully] discloses any information in contravention of the provisions of sub-section (1), he shall, on complaint made by or under the authority of the Trade Union or individual business affected, be punishable with fine which may extend to one thousand rupees :

Provided that nothing in this sub-section shall apply to the disclosure of any such information for the purposes of a prosecution under section 193 of the Indian Penal Code. XLV

[1][(3) No Criminal Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this section.

(4) No Criminal Court shall take cognizance of any offence under this section except with the previous sanction of the authority appointing such Court or Board ; and no Civil Court shall without the like sanction entertain any suit against a member of a Court or Board, or any person present at or concerned in the proceedings before a Court or Board, for any matter arising out of such proceedings.]

Representation of parties.

14. Subject to such conditions and restrictions as may be prescribed, any party to a dispute under inquiry or investigation by a Court or Board shall be entitled to be represented before the Court or Board by a legal practitioner.

Special provision regarding Public Utility Services.

Sudden strikes and lock-outs in utility services.

15. (1) Any person who, being employed in a public utility service, goes on strike in breach of contract without having given to his employer, within one month before so striking, not less than fourteen days' previous notice in writing of his intention to go on strike or, having given such notice, goes on strike before the expiry thereof, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(2) Any employer carrying on any public utility service who locks out his workmen in breach of contract without having given them, within one month before such lock-out, not less than fourteen days' notice in writing of his intention to lock them out, or, having given such notice, locks them out before the expiry thereof, shall be liable to imprisonment which may extend to one month, or to a fine which may extend to one thousand rupees, or with both.

(3) Where the employer committing an offence under sub-section (2) is a corporation, company or other association of persons, any secretary, director or other officer or person concerned with the management thereof shall be punishable as therein provided unless he proves that the offence was committed without his knowledge or without his consent.

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[1] Ins. by the Trade Disputes (Amendment) Act, 1932 (19 of 1932), s. 2.

(Special provision regarding Public Utility Services Special provision for Illegal Strikes and Lock outs.)

[1][(4) No Court shall take cognisance of any offence under this section or of the abetment of any such offence save on complaint made by or under authority from the Central Government where the public utility service in question is a railway service connected with a Federal Railway or a postal, telegraph or telephone service and the Provincial Government in other cases]

(5) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this section.

Special provision for Illegal Strikes and Lock-outs

16. (1) A strike or a lock out shall be illegal which— Illegal strikes and lock outs

(a) has any object other than the furtherance of a trade dispute within the trade or industry in which the strikers or employers locking out are engaged, and

(b) is designed or calculated to inflict severe, general and prolonged hardship upon the community and thereby to compel [2][any Government in British India, the Federal Railway Authority or the Crown Representative] to take or abstain from taking any particular course of action.

(2) It shall be illegal to commence or continue, or to apply any sums in direct furtherance or support of any such illegal strike or lock-out

(3) For the purposes of this section—

(a) a trade dispute shall not be deemed to be within a trade or industry unless it is a dispute between employers and workmen, or between workmen and workmen, in that trade or industry, which is connected with the employment or non employment or the terms of the employment, or with the conditions of labour, of persons in that trade or industry,

(b) without prejudice to the generality of the expression "trade or industry", workmen shall be deemed to be within the same trade or industry if their wages or conditions of employment are determined in accordance with agreements made with the same employer or group of employers

(4) A strike or a lock out shall not be deemed to be calculated to compel [2][any Government in British India, the Federal Railway Authority or the Crown Representative] unless such compulsion might reasonably be expected as a consequence thereof

17. (1) If any person declares, instigates, incites others to take part in, or otherwise acts in furtherance of, a strike or lock out which is illegal under the provisions of section 16, he shall be punishable with simple imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both Penalty

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[1] Subs. by the A O for the original sub-section.

[2] Subs. by the A O for 'the Govt.'

Provided that no person shall be deemed to have committed an offence under this section by reason only of his having ceased work or refused to continue to work or to accept employment.

(2) No Court shall take cognisance of any offence under this section save on complaint made by, or under authority from, [1][the appropriate Government].

[2][In this sub-section " the appropriate Government " means—

(a) in relation to industries, businesses and undertakings carried on by the Central Government or by the Federal Railway Authority or by a railway company operating a Federal Railway, the Central Government; and

(b) in other cases, the Provincial Government.]

(3) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this section.

Protection of persons withholding from illegal strike or lock-out.

18. (1) No person refusing to take part, or to continue to take part, in any strike or lock-out which is illegal under the provisions of section 16 shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any trade union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the union or society, anything to the contrary in the rules of a trade union or society notwithstanding.

(2) Nothing in the rules of a trade union or society requiring the settlement of disputes in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the Civil Court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as that Court thinks just.

Rules.

Power to make rules.

19. (1) The [3][Central Government] in respect of industries, businesses and undertakings carried on by [4][it] or under [5][its] authority, [6][or by the Federal Railway Authority or a railway company operating a Federal Railway], and the [7][Provincial Governments] in respect of other businesses, industries or undertakings within their respective Provinces, may make rules[8] for the purpose of giving effect to the provisions of this Act.

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[1] Subs. by the A. O. for " the G. G. in C. or the L. G."
[2] Ins. by the A. O.
[3] Subs. by the A. O. for " G. G. in C."
[4] Subs. by the A. O. for " him ".
[5] Subs. by the A. O. for " his ".
[6] Subs. by the A. O. for " or by a railway company ".
[7] Subs. by the A. O. for " Local Governments ".
[8] For rules made by the G. G. in C. under this section, *see* Gazette of India, 1929, Pt. I, pp. 1041 and 1323 and *ibid.*, 1930, Pt. I, p. 917; for rules made by the Provincial Governments, *see* different local R. and O.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely —

(a) the powers and procedure of Courts and Boards, including rules as to the summoning of witnesses the production of documents relevant to the subject-matter of an inquiry or investigation and the number of members necessary to form a quorum

(b) the allowances admissible to members of Courts and Boards and to witnesses,

(c) the ministerial establishment which may be allotted to a Court or Board and the salaries and allowances payable to members of such establishments,

(d) the conditions and restrictions subject to which persons may be represented by legal practitioners in proceedings under this Act before a Court or Board,

(e) any other matter which is to be or may be prescribed.

(3) All rules made under this section shall be published in the [1][Official Gazette] [2]* * and shall, on such publication have effect as if enacted in this Act

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THE INDIAN SOFT COKE CESS ACT, 1929

Act No VIII of 1929 [3]

[1st October 1929.]

An Act to provide for the levy of a cess on soft coke despatched by rail from collieries in the Provinces of Bengal and Bihar and Orissa

Whereas it is expedient to provide for the creation of a fund to be expended by a Committee specially constituted in this behalf for the promotion of the interests of the soft coke industry in the Provinces of Bengal and Bihar and Orissa,

And whereas for this purpose it is expedient to levy a cess on soft coke despatched by rail from collieries in the said provinces,

It is hereby enacted as follows —

1 (1) This Act may be called the Indian Soft Coke Cess Act, 1929 Short tit

(2) It extends to the whole of British India [4]* *.

(3) It shall come into force on such date[5] as the [6][Central Government] may, by notification in the [1][Official Gazette] appoint

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[1] Subs. by the A. O. for "Gazette of India".
[2] The words "or the local official Gazette, as the case may be" rep. by the A. O.
[3] For Statement of Objects and Reasons, see Gazette of India, 19[illegible], Pt. V, p. [illegible].
[4] The words "except [illegible]" rep. by the A. O.
[5] 1st June 1930, see Gazette of India, 1930, Pt. I, p. [illegible].
[6] Subs. by the A. O. for "G. G. in C."

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Committee" means the Soft Coke Cess Committee constituted under section 4;

(*b*) "prescribed" means prescribed by rules made under this Act; and

(*c*) "soft coke" means all coke which is unsuitable for metallurgical purposes.

Imposition of soft coke cess.

3. (*1*) There shall be levied and collected on all soft coke despatched by rail from collieries in the Provinces of Bengal and Bihar and Orissa a cess at the rate of two annas per ton.

(*2*) The cess shall be collected by the Railway Administrations concerned by means of a surcharge on freight and shall be paid to the Committee, after deduction of the expenses of collection (if any), in such manner as may be prescribed.

Constitution of Soft Coke Cess Committee.

4. (*1*) The [1][Central Government] shall constitute a Committee, consisting of the following members, to receive and expend the proceeds of the cess :—

(*i*) the Chief Mining Engineer to the Railway Board [2][or, after the establishment of the Federal Railway Authority, to that Authority], *ex-officio*;

[3][(*ii*) one person nominated by the Central Government to represent Bengal;

(*iii*) one person nominated by the Central Government to represent the Provinces of Bihar and Orissa;]

(*iv*) seven persons nominated by the Indian Mining Federation; and

(*v*) one person nominated by the Indian Mining Association :

Provided that, if within the period prescribed in this behalf, any authority or body fails to make any nomination which it is entitled to make under this section, the [1][Central Government] may [4][itself] nominate a member to fill the vacancy.

(*2*) The Chief Mining Engineer to the Railway Board [2][or, after the establishment of the Federal Railway Authority, to that Authority] shall be *ex-officio* President of the Committee.

(*3*) Where a nominated member dies, resigns, ceases to reside in British India or becomes incapable of acting, the [1][Central Government] may, on the recommendation of the authority or body which would have been entitled

[1] Subs. by the A. O. for "G. G. in C."
[2] Ins. by the A. O.
[3] Subs. by the A. O. for the original cls. (*ii*) and (*iii*).
[4] Subs. by the A. O. for "himself".

to make the nomination if it had been a first nomination under sub section (*1*), or where such recommendation is not made within the prescribed period, then on [1][its] own initiative, nominate a person to fill the vacancy

(*4*) No act done by the Committee shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Committee

5. The proceeds of the cess and any other monies received by the Committee shall be applied to meeting the expenses of the Committee and the cost of such measures as it may consider advisable to take for promoting the sale and improving the methods of manufacture of soft coke — Application of proceeds of soft coke cess.

6. (*1*) The Committee shall keep accounts of all monies received and expended under section 5 — Keeping and auditing of accounts

(*2*) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the [2][Central Government], and such auditors may disallow any item which has, in their opinion, been expended out of any monies so received otherwise than as directed by or under this Act

(*3*) If any item is disallowed, an appeal shall lie to the [2][Central Government] whose decision shall be final

7. (*1*) The [2][Central Government] may, after consulting the Committee and after previous publication, make rules[3] to carry out the purposes of this Act — Power to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the regulation of the nomination of members of the Committee, and the procedure of the Committee,

(*b*) the regulation of the levy, collection and payment of the cess, and

(*c*) the form of accounts to be kept and the publication of an abstract of such accounts with the report of the auditors thereon

(*3*) All such rules shall be published in the [4][Official Gazette]

8. Sections 2 to 7 shall remain in force only until the 31st December, 1931 — Time during which sections 2 to 7 are to remain in force

Provided that the [2][Central Government] may, on the recommendation of the Committee, declare by notification[5] in the [4][Official Gazette] that the said sections shall continue in force for any further period specified in such notification

9. When sections 2 to 7 cease to be in force, all monies and other property in the possession of the Committee shall revert to His Majesty [6][for the purposes of the Central Government] — Disposal of surplus proceeds.

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[1] Subs. by the A. O. for "his"

[2] Subs. by the A. O. for "G. G. in C."

[3] For the Soft Coke Cess Committee Rules made under this section, see Gazette of India, 1930, Pt. I, p. [illegible]

[4] Subs. by the A. O. for "Gazette of India"

[5] For notification declaring ss. 2 to 7 to continue in force for five years from 1st January, 1935, see Gazette of India, 1934, Pt. I, p. 1313.

[6] Ins. by the A. O.

THE CHILD MARRIAGE RESTRAINT ACT, 1929.

ACT NO. XIX OF 1929.[1]

[*1st October, 1929.*]

An Act to restrain the solemnisation of child marriages.

WHEREAS it is expedient to restrain the solemnisation of child marriages; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Child Marriage Restraint Act, [2][1929].

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) It shall come into force on the 1st day of April, 1930.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "child" means a person who, if a male, is under eighteen years of age, and if a female, is under fourteen years of age;

(*b*) "child marriage" means a marriage to which either of the contracting parties is a child;

(*c*) "contracting party" to a marriage means either of the parties whose marriage is thereby solemnised; and

(*d*) "minor" means a person of either sex who is under eighteen years of age.

Punishment for male adult below twenty-one years of age marrying a child.

3. Whoever, being a male above eighteen years of age and below twenty-one, contracts a child marriage shall be punishable with fine which may extend to one thousand rupees.

Punishment for male adult above twenty-one years of age marrying a child.

4. Whoever, being a male above twenty-one years of age, contracts a child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

Punishment for solemnising a child marriage.

5. Whoever performs, conducts or directs any child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both, unless he proves that he had reason to believe that the marriage was not a child marriage.

Punishment for parent or guardian concerned in a child marriage.

6. (*1*) Where a minor contracts a child marriage, any person having charge of the minor, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to promote the marriage or permits it to be solemnised, or negligently fails to prevent it from being solemnised, shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both:

Provided that no woman shall be punishable with imprisonment.

(*2*) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor has contracted a child marriage,

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1927, Pt. V, p. 28; for Reports of Select Committees, *see ibid.*, 1928, Pt. V, pp. 111 and 165.

[2] Subs. by the Repealing and Amending Act, 1930 (8 of 1930), s. 2 and Sch. I, for "1928".

the person having charge of such minor has negligently failed to prevent the marriage from being solemnised

Imprisonment not to be awarded for offences under section 3.

7. Notwithstanding anything contained in section 25 of the General Clauses Act, 1897, or section 64 of the Indian Penal Code, a Court sentencing an offender under section 3 shall not be competent to direct that, in default of payment of the fine imposed, he shall undergo any term of imprisonment

Jurisdiction under this Act.

8. Notwithstanding anything contained in section 190 of the Code of Criminal Procedure, 1898, no Court other than that of a Presidency Magistrate or a District Magistrate shall take cognizance of, or try, any offence under this Act

Mode of taking cognizance of offences.

9. No Court shall take cognizance of any offence under this Act save upon complaint made within one year of the solemnisation of the marriage in respect of which the offence is alleged to have been committed

Preliminary inquiries into offences under this Act.

10. The Court taking cognizance of an offence under this Act shall, unless it dismisses the complaint under section 203 of the Code of Criminal Procedure, 1898, either itself make an inquiry under section 202 of that Code, or direct a Magistrate of the first class subordinate to it to make such inquiry

Power to take security from complainant.

11. (*1*) At any time after examining the complainant and before issuing process for compelling the attendance of the accused, the Court shall, except for reasons to be recorded in writing, require the complainant to execute a bond, with or without sureties, for a sum not exceeding one hundred rupees, as security for the payment of any compensation which the complainant may be directed to pay under section 250 of the Code of Criminal Procedure, 1898, and if such security is not furnished within such reasonable time as the Court may fix, the complaint shall be dismissed

(2) A bond taken under this section shall be deemed to be a bond taken under the Code of Criminal Procedure, 1898, and Chapter XLII of that Code shall apply accordingly

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THE TRANSFER OF PROPERTY (AMENDMENT) SUPPLEMENTARY ACT, 1929.

ACT NO. XXI OF 1929.[1]

[*4th October, 1929*]

An Act to supplement the Transfer of Property (Amendment) Act, 1929.

WHEREAS by reason of the passing of the Transfer of Property (Amendment) Act, 1929, it is expedient that certain amendments should be made in certain other enactments, It is hereby enacted as follows —

[1] For Statement of Objects and Reasons, see Gazette of India, 1929, Pt. V, p. 93; for Report of Special Committee, see ibid., p. 40, for Report of Select Committee, see ibid., p. 123

This Act has been declared to be in force with modifications in the Sonthal Parganas under s. 3 (3) (a) of the Sonthal Parganas Settlement Regulation (3 of 1872), see B & O Gazette, 1930, Pt. II, p 433

Short title and commencement.

1. (*1*) This Act may be called the Transfer of Property (Amendment) Supplementary Act, 1929.

(*2*) It shall come into force on the first day of April, 1930.

2 to 14. [*Amendments.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

Savings.

15. (*1*) Save as provided in sub-section (*2*), nothing in this Act shall be deemed to affect—

(*a*) the terms or incidents of any transfer or disposition of property made or effected before the first day of April, 1930 ;

(*b*) the validity, invalidity, effect or consequences of anything already done or suffered before the aforesaid date ;

(*c*) any right, title, obligation or liability already acquired, accrued or incurred before such date ;

(*d*) any remedy or proceeding in respect of such right, title, obligation or liability ; or

(*e*) anything done in the course of any proceeding pending in any Court on the aforesaid date ;

and any such remedy or proceeding may be enforced, instituted or continued, as the case may be, as if this Act had not been passed.

(*2*) Notwithstanding anything contained in section 9 of this Act, in the Presidency of Bombay and such other territories as the [1][Central Government] may, by notification in the [2][Official Gazette], specify in this behalf, a suit by a mortgagee for foreclosure or sale on a mortgage by deposit of title-deeds may be instituted within two years from the date of the commencement of this Act, or within sixty years from the date when the money secured by the mortgage became due, whichever period expires first ; and no such suit instituted within the said period of sixty years and pending at the date of the commencement of this Act, either in a Court of first instance or of appeal, shall be dismissed on the ground that the twelve years' rule of limitation is applicable.

THE SCHEDULE.—[OMITTED.][3]

THE DANGEROUS DRUGS ACT, 1930.

CONTENTS.

CHAPTER I.

PRELIMINARY.

[1] Subs. by the A. O. for "G. G. in C."

[2] Subs. by the A. O. for "Gazette of India".

[3] The Sch., referred to in s. 8, has been rendered otiose by the repeal of that section and therefore omitted.

CHAPTER II.

PROHIBITION AND CONTROL.

CHAPTER III.

OFFENCES AND PENALTIES.

[illegible]

[illegible]

ACT NO. II OF 1930.[1]

[*1st March, 1930.*]

An Act to centralise and vest in the Governor General in Council the control over certain operations relating to dangerous drugs and to increase and render uniform throughout British India the penalties for offences relating to such operations.

WHEREAS India participated in the Second International Opium Conference, which was convoked in accordance with the resolution of the Assembly of the League of Nations dated the 27th day of September, 1923, met at Geneva on the 17th day of November, 1924, and on the 19th day of February, 1925, adopted the Convention relating to Dangerous Drugs (hereinafter referred to as the Geneva Convention);

AND WHEREAS India was a State signatory to the said Geneva Convention;

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 138; for Report of Select Committee, *see ibid.*, 1930, Pt. V, p. 27.

AND WHEREAS the Contracting Parties to the said Geneva Convention resolved to take further measures to suppress the contraband traffic in and abuse of Dangerous Drugs, especially those derived from opium, Indian hemp and coca leaf, such measures being more particularly set forth in the Articles of the said Geneva Convention ;

AND WHEREAS for the effective carrying out of the said measures it is expedient that the control of certain operations relating to Dangerous Drugs should be centralised and vested in the Governor General in Council ;

AND WHEREAS it is also expedient that the penalties for certain offences relating to Dangerous Drugs should be increased and that all penalties relating to certain operations should be rendered uniform throughout British India ;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Dangerous Drugs Act, 1930.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on such date[1] as the [2][Central Government] may, by notification in the [3][Official Gazette], appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "coca leaf" means—

(i) the leaf and young twigs of any coca plant, that is, of the *Erythroxylon coca* (*Lamk.*) and the *Erythroxylon novogranatense* (*Hiern.*) and their varieties, and of any other species of this genus which the [2][Central Government] may by notification in the [3][Official Gazette] declare to be coca plants for the purposes of this Act, and

(ii) any mixture thereof, with or without neutral materials, but does not include any preparation containing not more than 0·1 per cent. of cocaine ;

(*b*) "coca derivative" means—

(i) crude cocaine, that is, any extract of coca leaf which can be used, directly or indirectly, for the manufacture of cocaine ;

(ii) ecgonine, that is, lævo-ecgonine having the chemical formula $C_9H_{15}NO_3$, H_2O, and all the derivatives of lævo-ecgonine from which it can be recovered ;

[1] This Act came into force on the 1st February, 1931, see Gazette of India, 1931, Pt. I, p. 35.

[2] Subs. by the A. O. for "G. G. in C."

[3] Subs. by the A. O. for "Gazette of India".

(*Chapter I.—Preliminary.*)

(iii) cocaine, that is, methyl-benzoyl-lævo-ecgonine having the chemical formula $C_{17} H_{21} NO_4$, and its salts ; and

(iv) all preparations, officinal and non-officinal, containing more than 0·1 per cent of cocaine ;

(c) " hemp " means—

(i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang, siddhi,* or *ganja ;*

(ii) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport ; and

(iii) any mixture, with or without neutral materials, of any of the above forms of hemp or any drink prepared therefrom ;

(*d*) " medicinal hemp " means any extract or tincture of hemp ;

(*e*) " opium " means—

(i) the capsules of the poppy (*Papaver somniferum L.*) ;

(ii) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport ; and

(iii) any mixture, with or without neutral materials, of any of the above forms of opium ;

but does not include any preparation containing not more than 0·2 per cent. of morphine ;

(*f*) " opium derivative " means—

(i) medicinal opium, that is, opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the British Pharmacopœia, whether in powder form or granulated or otherwise or mixed with neutral materials ;

(ii) prepared opium, that is, any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking, and the dross or other residue remaining after opium is smoked ;

(iii) morphine, that is, the principal alkaloid of opium having the chemical formula $C_{17} H_{19} NO_3$, and its salts ;

(iv) diacetylmorphine, that is, the alkaloid, also known as diamorphine or heroin, having the chemical formula $C_{21} H_{23} NO_5$, and its salts ; and

(v) all preparations, officinal and non-officinal, containing more than 0·2 per cent. of morphine, or containing any diacetylmorphine ;

(*g*) " manufactured drug " includes—

(i) all coca derivatives, medicinal hemp and opium derivatives ; and

(Chapter I.—Preliminary)

(ii) any other narcotic substance which the [1][Central Government] may, by notification[2] in the [3][Official Gazette] made in pursuance of a recommendation under Article 10 of the Geneva Convention [4][or in pursuance of any international convention supplementing the Geneva Convention], declare to be a manufactured drug,

but does not include any preparation which the [1][Central Government] may, by notification[2] in the [3][Official Gazette] made in pursuance of a finding under Article 8 of the Geneva Convention, declare not to be a manufactured drug,

(*h*) "dangerous drug" includes coca leaf, hemp and opium, and all manufactured drugs,

[5][(*i*) "to import into British India" means to bring into British India by land, sea or air across any of the customs frontiers[6] defined by the Central Government,

(*j*) "to import inter-provincially" means to bring into a Province otherwise than across any of the said customs frontiers,

(*k*) "to export from British India" means to take out of British India by land, sea or air across any of the said customs frontiers,

(*l*) "to export inter provincially" means to take out of a Province otherwise than across any of the said customs frontiers,

(*ll*) "British India" includes Berar, and]

(*m*) "to transport" means to take from one place to another in the same Province,[7]*

[7]* * * * * *

3. The [1][Central Government] may make rules prescribing the method by which percentages in the case of liquid preparations shall be calculated for the purposes of clauses (*a*), (*b*), (*e*) and (*f*) of section 2. Calculation of percentages in liquid preparations.

Provided that, unless and until such rules are made, such percentages shall be calculated on the basis that a preparation containing one per cent. of a substance means a preparation in which one gramme of the substance,

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[1] Subs. by the A. O. for "G. G. in C."

[2] See the following notifications of the G. of I. in the Finance Department (Central Revenues) :—

(i) [illegible] No. 4—Dangerous [illegible] ium, dated 25th [illegible]

(ii) [illegible] 1—Dangerous [illegible]

[3] Subs. [illegible]

[illegible] one or more than one, whether sea or land, whether exterior or interior, of British India, see Gazette of India Extraordinary, dated 1st April, 1937, p. 433

[7] The word "and" at the end of cl. (*m*), and cl. (*n*) were rep. by the A. O.

if a solid, or one millilitre of the substance, if a liquid, is contained in every one hundred millilitres of the preparation, and so in proportion for any greater or less percentage.

CHAPTER II.

PROHIBITION AND CONTROL.

Prohibition of certain operations.

4. [1][(*1*)] No one shall—

(*a*) cultivate any coca plant, or gather any portion of a coca plant,

(*b*) manufacture or possess prepared opium, unless it is prepared from opium lawfully possessed for the consumption of the person so possessing it, or

(*c*) import into British India, export from British India, tranship or sell prepared opium :

Provided that this section shall not apply to the cultivation of any coca plant or to the gathering of any portion thereof on behalf of [2][the Crown].

[3][(*2*) The [4][Provincial Government] may make rules restricting and regulating the manufacture and possession of prepared opium from opium which is lawfully possessed under clause (*b*) of sub-section (*1*)]

Control of Central Government over production and supply of opium.

5. (*1*) No one shall—

(*a*) cultivate the poppy (*Papaver somniferum L.*), or

(*b*) manufacture opium,

save in accordance with rules made under sub-section (*2*) and with the conditions of any licence for that purpose which he may be required to obtain under those rules.

(*2*) The [5][Central Government] may make rules[6] permitting and regulating the cultivation of the poppy (*Papaver somniferum L.*) and the manufacture of opium, and such rules may prescribe the form and conditions of licences for such cultivation and manufacture, the authorities by which such licences may be granted, the fees that may be charged therefor, and any other matter requisite to render effective the control of the [5][Central Government] over such cultivation and manufacture.

(*3*) The [5][Central Government] may also make rules[6] permitting and regulating the sale of opium from Government factories for export or to [7][Provincial Governments] or to manufacturing chemists.

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[1] The original s. 4 was re-numbered as sub-section (*1*) of that section by the Dangerous Drugs (Amendment) Act, 1933 (26 of 1933), s. 3.

[2] Subs. by the A. O. for " Govt."

[3] Ins. by Act 26 of 1933, s. 3.

[4] Subs. by the A. O. for " L. G."

[5] Subs. by the A. O. for " G. G. in C."

[6] For rules made under sub-sections (*2*) and (*3*) of s. 5, *see* the Central Opium Rules, 1934 (published with G. of I., Finance Department (Central Revenues) Notification No. 1—Dangerous Drugs, dated 17th February, 1934 and subsequently amended).

[7] Subs. by the A. O. for " Local Governments ".

(*Chapter II.—Prohibition and Control.*)

Control of Central Government over manufacture of manufactured drugs.

6. (*1*) No one shall manufacture any manufactured drug, other than prepared opium, save in accordance with rules made under sub section (*2*) and with the conditions of any licence for that purpose which he may be required to obtain under those rules.

(*2*) The [1][Central Government] may make rules[2] permitting and regulating the manufacture of manufactured drugs, other than prepared opium, and such rules may prescribe the form and conditions of licences for such manufacture, the authorities by which such licences may be granted and the fees that may be charged therefor, and any other matter requisite to render effective the control of the [1][Central Government] over such manufacture

(*3*) Nothing in this section shall apply to the manufacture of medicinal opium or of preparations containing morphine, diacetylmorphine or cocaine from materials which the maker is lawfully entitled to possess.

Control of Central Government over operations at land and sea frontiers.

7. (*1*) No one shall—

(*a*) import into British India,

(*b*) export from British India, or

(*c*) tranship

any dangerous drug, other than prepared opium, save in accordance with rules made under sub section (*2*) and with the conditions of any licence for that purpose which he may be required to obtain under those rules.

(*2*) The [1][Central Government] may make rules[3] permitting and regulating the import into and export from British India and the transhipment of dangerous drugs, other than prepared opium, and such rules may prescribe the ports or places at which any kind of dangerous drug may be imported, exported or transhipped, the form and conditions of licences for such import, export or transhipment, the authorities by which such licences may be granted, the fees that may be charged therefor, and any other matter requisite to render effective the control of the [1][Central Government] over such import, export and transhipment.[4]

Control of Provincial Government over internal traffic in

8. (*1*) No one shall—

(*a*) import or export inter-provincially, transport, possess or sell any manufactured drug, other than prepared opium, or coca leaf, or

[1] [illegible]

[2] [illegible] ...les, 1934 (published with G. of I., Finance De... 2—Dangerous Drugs, dated 17th February, 1934, [illegible]

[3] *See* the Dangerous Drugs (Import, Export and Transhipment) Rules, 1933 (published with G. of I., Finance Department (Central Revenues) Notification No. 1—Dangerous Drugs, dated 18th February, 1933, and subsequently amended), and the Central Opium (Import by land) Rules 1935 (published with Notification No. 6—Dangerous Drugs, dated 14th September, 1935).

[4] For entrustment to Provincial Governments of functions under this section in respect of import into Provinces from, and export from Provinces into, certain Indian States and French and Portuguese India, *see* the following notifications of the G. of I. in the Finance Department (Central Revenues)—Nos. 13 and 14—Dangerous Drugs, dated 14th August, 1937, and No. 17—Dangerous Drugs, dated 23rd October, 1937.

(*b*) manufacture medicinal opium or any preparation containing morphine, diacetylmorphine or cocaine,

manufactured drugs and coca leaf.

save in accordance with rules made under sub-section (*2*) and with the conditions of any licence for that purpose which he may be required to obtain under those rules.

(*2*) The [1][Provincial Government] may [2]* * * make rules permitting and regulating—

(*a*) the inter-provincial import and export into and from the territories under its administration, the transport, possession and sale of manufactured drugs, other than prepared opium, and of coca leaf; and

(*b*) the manufacture of medicinal opium or of any preparation containing morphine, diacetylmorphine or cocaine from materials which the maker is lawfully entitled to possess.

Such rules may prescribe the form and conditions of licences for such import, export, transport, possession, sale and manufacture, the authorities by which such licences may be granted and the fees that may be charged therefor, and any other matters requisite to render effective the control of the [1][Provincial Government] over such import, export, transport, possession, sale and manufacture.

(*3*) Save in so far as may be expressly provided in rules made under sub-section (*2*), nothing in this section shall apply to manufactured drugs which are the property and in the possession of Government:

Provided that such drugs shall not be sold or otherwise delivered to any person who, under the rules made by the [1][Provincial Government] under this section, is not entitled to their possession.

Control of Provincial Government over external dealings in dangerous drugs.

9. No one shall engage in or control any trade whereby a dangerous drug is obtained outside British India and supplied to any person outside British India, save in accordance with the conditions of a licence granted by and at the discretion of the [1][Provincial Government].

CHAPTER III.

OFFENCES AND PENALTIES.

Punishment for contravention of section 4.

10. Whoever—

(*a*) cultivates any coca plant or gathers any portion of a coca plant,

(*b*) manufactures or possesses prepared opium otherwise than as permitted under section 4, or

(*c*) imports into British India, exports from British India, tranships or sells prepared opium,

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[1] Subs. by the A. O. for "L. G."

[2] The words "subject to the control of the G. G. in C." rep. by the A. O.

shall be punished with imprisonment which may extend to two years, or with fine, or with both

Provided that this section shall not apply to the cultivation of any coca plant or to the gathering of any portion thereof on behalf of [1][the Crown].

Punishment for contravention of section 5.

11. Whoever, in contravention of section 5, or any rule made under that section, or of any condition of a licence granted thereunder,

(a) cultivates the poppy, or

(b) manufactures opium,

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Punishment for contravention of section 6

12. Whoever, in contravention of section 6, or any rule made under that section or any condition of a licence granted thereunder, manufactures any manufactured drug, shall be punished with imprisonment which may extend to two years, or with fine, or with both

Punishment for contravention of section 7

13. Whoever, in contravention of section 7, or any rule made under that section, or any condition of a licence granted thereunder,

(a) imports into British India,

(b) exports from British India, or

(c) tranships

any dangerous drug, shall be punished with imprisonment which may extend to two years, or with fine, or with both

Punishment for contravention of section 8

14. Whoever, in contravention of section 8, or any rule made under that section, or any condition of a licence issued thereunder,

(a) imports or exports inter provincially, transports, possesses or sells any manufactured drug or coca leaf, or

(b) manufactures medicinal opium or any preparations containing morphine, diacetylmorphine or cocaine,

shall be punished with imprisonment which may extend to two years, or with fine, or with both

Punishment for allowing premises to be used for the commission of an offence

15. Whoever, being the owner or occupier or having the use of any house, room, enclosure, space, vessel, vehicle, or place, knowingly permits it to be used for the commission by any other person of an offence punishable under section 10, section 12, section 13, or section 14, shall be punished with imprisonment which may extend to two years, or with fine, or with both.

[illegible]

16. Whoever, having been convicted of an offence punishable under section 10, section 12, section 13, or section 14, is guilty of any offence punishable under any of those sections, shall be subject for every such subsequent offence to imprisonment which may extend to four years, or to fine, or to both.

[illegible]

17. Whoever, having been convicted of an offence punishable under section 15, is again guilty of an offence punishable under that section, shall be subject for every such subsequent offence to imprisonment which may extend to four years, or to fine, or to both

[1] [illegible]

(*Chapter III.—Offences and Penalties. Chapter IV.—Procedure.*)

Security for abstaining from commission of certain offences.

18. (*1*) Whenever any person is convicted of an offence punishable under section 10, section 12, section 13, or section 14, and the Court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under those sections, the Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years, as it thinks fit to fix.

(*2*) The bond shall be in the form contained in Schedule I, and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as they are applicable, apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of that Code. V of 1

(*3*) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(*4*) An order under this section may also be made by an appellate Court, or by the High Court when exercising its powers of revision.

Penalty for contravention of section 9.

19. Whoever engages in or controls any trade whereby a dangerous drug is obtained outside British India and supplied to any person outside British India, otherwise than in accordance with the conditions of a licence granted under section 9, shall be punished with fine which may extend to one thousand rupees.

Attempts.

20. Whoever attempts to commit an offence punishable under this Chapter, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with the punishment provided for the offence.

Abetments.

21. (*1*) Whoever abets an offence punishable under this Chapter shall, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, be punished with the punishment provided for the offence. XLV of

(*2*) A person abets an offence within the meaning of this section who, in British India, abets the commission of any act in a place without and beyond British India which—

(*a*) would constitute an offence if committed within British India; or

(*b*) under the laws of such place, is an offence relating to dangerous drugs having all the legal conditions required to constitute it such an offence the same as or analogous to the legal conditions required to constitute it an offence punishable under this Chapter, if committed within British India.

CHAPTER IV.

PROCEDURE.

Power to issue warrants.

22. (*1*) The Collector, or other officer authorised by the [1][Provincial Government] in this behalf, or a Presidency Magistrate or a Magistrate of the

[1] Subs. by the A. O. for "L. G."

first class, or a Magistrate of the second class specially empowered by the [1][Provincial Government] in this behalf, may issue a warrant for the arrest of any person whom he has reason to believe to have committed an offence punishable under Chapter III, or for the search, whether by day or by night, of any building, vessel or place in which he has reason to believe any dangerous drug in respect of which an offence punishable under Chapter III has been committed is kept or concealed

(2) The officer to whom a search warrant under sub section (1) is addressed shall have all the powers of an officer acting under section 23

Power of entry, search, seizure and arrest without warrant.

23. (1) Any officer of the department of Excise, Police, Customs, Salt, Opium, or Revenue, superior in rank to a peon or constable, authorised in this behalf by the [1][Provincial Government], who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that any dangerous drug in respect of which an offence punishable under Chapter III has been committed is kept or concealed in any building, vessel or enclosed place, may, between sunrise and sunset,—

(a) enter into any such building, vessel or place,

(b) in case of resistance, break open any door and remove any other obstacle to such entry,

(c) seize such drug and all materials used in the manufacture thereof and any other article which he has reason to believe to be liable to confiscation under section 33 and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under Chapter III relating to such drug, and

(d) detain and search, and, if he think proper, arrest any person whom he has reason to believe to have committed an offence punishable under Chapter III relating to such drug

Provided that if such officer has reason to believe that a search warrant cannot be obtained without affording opportunity for the concealment of evidence or facility for the escape of an offender, he may enter and search such building, vessel or enclosed place at any time between sunset and sunrise, after recording the grounds of his belief

(2) Where an officer takes down any information in writing under sub-section (1), or records grounds for his belief under the proviso thereto, he shall forthwith send a copy thereof to his immediate official superior.

Power of seizure and arrest in public places

24. Any officer of any of the departments mentioned in section 23 may—

(a) seize, in any public place or in transit, any dangerous drug in respect of which he has reason to believe an offence punishable under Chapter III has been committed, and, along with such drug, any other article liable to confiscation under section 33,

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[1] Subs. by the A. O. for "L. G."

and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under Chapter III relating to such drug;

(*b*) detain and search any person whom he has reason to believe to have committed an offence punishable under Chapter III, and, if such person has any dangerous drug in his possession and such possession appears to him to be unlawful, arrest him and any other persons in his company.

Mode of making searches and arrests.

25. The provisions of the Code of Criminal Procedure, 1898, shall apply, in so far as they are not inconsistent with the provisions of sections 22, 23 and 24, to all warrants issued and arrests and searches made under those sections.

Obligations on officers to assist each other.

26. All officers of the several departments mentioned in section 23 shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

Report of arrests and seizures.

27. Whenever any person makes any arrest or seizure under this Act, he shall, within forty-eight hours next after such arrest or seizure, make a full report of all the particulars of such arrest or seizure to his immediate official superior.

Punishment for vexatious entry, search, seizure or arrest.

28. Any person empowered under section 23 or section 24 who—

(*a*) without reasonable grounds of suspicion, enters or searches, or causes to be entered or searched, any building, vessel or place;

(*b*) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any dangerous drug or other article liable to be confiscated under section 33, or of seizing any document or other article liable to seizure under section 23 or section 24; or

(*c*) vexatiously and unnecessarily detains, searches or arrests any person,

shall be punished with fine which may extend to five hundred rupees.

Disposal of persons arrested and of articles seized.

29. (*1*) Every person arrested and articles seized under a warrant issued under section 22 shall be forwarded without delay to the authority by whom the warrant was issued; and every person arrested and article seized under section 23 or section 24 shall be forwarded without delay to the officer in charge of the nearest police station or to the nearest officer of the Excise Department empowered under section 30.

(*2*) The authority or officer to whom any person or article is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or article.

Power to invest Excise officers with powers of an officer in charge of a police station.

30. The [1][Provincial Government] may invest any officer of the Excise Department or any class of such officers, with the powers of an officer in charge of a police station for the investigation of offences under this Act.

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[1] Subs. by the A. O. for "L. G."

(*Chapter IV.—Procedure.*)

31. No Magistrate shall try an offence under this Act unless he is a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by the [1][appropriate Government] in this behalf. Jurisdiction to try offences.

[2][In this section "the appropriate Government" means as respects any contravention of any rules which under this Act fall to be made by the Provincial Government, that Government, and in other cases, the Central Government.]

32. In trials under this Act it may be presumed, unless and until the contrary is proved, that the accused has committed an offence under Chapter III in respect of— Presumption from possession of illicit articles.

(*a*) any dangerous drug ;

(*b*) any poppy or coca plant growing on any land which he has cultivated ;

(*c*) any apparatus specially designed or any group of utensils specially adapted for the manufacture of any dangerous drug ; or

(*d*) any materials which have undergone any process towards the manufacture of a dangerous drug, or any residue left of the materials from which a dangerous drug has been manufactured,

for the possession of which he fails to account satisfactorily.

33. (*1*) Whenever any offence has been committed which is punishable under Chapter III, the dangerous drug, materials, apparatus and utensils in respect of which or by means of which such offence has been committed, shall be liable to confiscation. Liability of illicit articles to confiscation.

(*2*) Any dangerous drug lawfully imported, transported, manufactured, possessed, or sold along with, or in addition to, any dangerous drug which is liable to confiscation under sub-section (*1*), and the receptacles, packages and coverings in which any dangerous drug, materials, apparatus or utensils liable to confiscation under sub-section (*1*) is found, and the other contents, if any, of such receptacles or packages, and the animals, vehicles, vessels and other conveyances used in carrying the same, shall likewise be liable to confiscation.

Provided that no animal, vehicle, vessel or other conveyance shall be liable to confiscation unless it is proved that the owner thereof knew that the offence was being, or was to be or was likely to be, committed.

34. (*1*) *In the trial of offences under this Act, whether the accused is convicted or acquitted, the Court shall decide whether any article seized under this Chapter is liable to confiscation under section 33 ; and, if it decides that the article is so liable, it may order confiscation accordingly.* Procedure in making confiscations.

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[1] Subs. by the A. O. for "L. G."
[2] Ins. by the A. O.

(*Chapter IV.—Procedure. Chapter V.—Miscellaneous.*)

(*2*) Where any article seized under this Chapter appears to be liable to confiscation under section 33, but the person who committed the offence in connection therewith is not known or cannot be found, the Collector or other officer authorised by the [1][Provincial Government] in this behalf, may inquire into and decide such liability, and may order confiscation accordingly:

Provided that no order of confiscation of an article shall be made until the expiry of one month from the date of seizure, or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in respect of his claim:

Provided, further, that, if any such article, other than a dangerous drug, is liable to speedy and natural decay, or if the Collector or other officer is of opinion that its sale would be for the benefit of its owner, he may at any time direct it to be sold; and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of the sale.

(*3*) Any person not convicted who claims any right to property which has been confiscated under this section may appeal to the Court of Session against the order of confiscation.

Power to make rules regulating disposal of confiscated articles and rewards.

35. [2][In connection with offences against rules which under this Act fall to be made by the Provincial Government, the Provincial Government, and in connection with other offences, the Central Government,] may make rules *to regulate*—

(*a*) the disposal of all articles confiscated under this Act; and

(*b*) the rewards to be paid to officers, informers and other persons out of the proceeds of fines and confiscations under this Act.

CHAPTER V.

MISCELLANEOUS.

Provisions regarding rules.

36. (*1*) All rules made under this Act shall be subject to the condition of previous publication.

[3][(*2*) Rules made under this Act shall be published in the Official Gazette.]

Recovery of sums due to Government.

37. (*1*) Any arrear of any licence fee chargeable by any rule made under this Act may be recovered from the person primarily liable to pay the same or from his surety (if any) as if it were an arrear of land-revenue.

(*2*) When any person, in compliance with any rule made under this Act, gives a bond (other than a bond under section 18) for the performance of any act, or for his abstention from any act, such performance or abstention shall be deemed to be a public duty, within the meaning of section 74 of the Indian Contract Act, 1872; and, upon breach of the conditions of such bond by him, IX of

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[1] Subs. by the A. O. for "L. G."
[2] Subs. by the A. O. for "The G. G. in C."
[3] Subs. by the A. O. for the original sub-sections (2) and (3).

the whole sum named therein as the amount to be paid in case of such breach may be recovered from him or from his surety (if any) as if it were an arrear of land revenue.

Application of the Sea Customs Act, 1878.

38. All prohibitions and restrictions imposed by or under this Act on the import into British India, the export from British India and the transhipment of dangerous drugs, shall be deemed to be prohibitions and restrictions
1878. imposed under section 19 or section 134 of the Sea Customs Act, 1878, and the provisions of that Act shall apply accordingly:

Provided that, where the doing of any thing is an offence punishable under that Act and under this Act, nothing in that Act or in this section shall prevent the offender from being punished under this Act.

Saving of local and special laws.

39. (*1*) Nothing in this Act or in the rules made thereunder shall affect the validity of any enactment of a [1][local or Provincial Legislature] for the time being in force, or of any rule made thereunder, which imposes any restriction not imposed by or under this Act, or imposes a restriction greater in degree than a corresponding restriction imposed by or under this Act, on the consumption of or traffic in any dangerous drug within British India.

(2) Nothing in this Act or in the rules made thereunder shall affect the
1857. validity of the Opium Act, 1857:

Provided that, where the doing of any thing is an offence punishable under that Act and under this Act, nothing in that Act or in this sub-section shall prevent the offender from being punished under this Act.

40. [*Amendment of certain enactments.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

Saving of things already done.

41. When anything done under any enactment specified in the first three columns of Schedule II is in force immediately prior to the commencement of this Act, it shall be deemed, as from the commencement of this Act, to have been done under this Act or under that enactment as hereby amended, as the case may require.

SCHEDULE I

BOND TO ABSTAIN FROM THE COMMISSION OF OFFENCES UNDER THE DANGEROUS DRUGS ACT, 1930.

(*See* section 18.)

Whereas I (*name*), inhabitant of (*place*), have been called upon to enter into a bond to abstain from the commission of offences under section 10, section 12, section 13 and section 14 of the Dangerous Drugs Act, 1930, for the term of   , I hereby bind myself not to commit any such offence

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[1] Subs. by the A. O. for "local Legislature".

during the said term and, in case of my making default therein, I hereby bind myself to forfeit to His Majesty the King, Emperor of India, the sum of rupees .

Dated this day of 19 .

(Signature.)

(Where a bond with sureties is to be executed, add—)

We do hereby declare ourselves sureties for the abovenamed that he will abstain from the commission of offences under section 10, section 12, section 13 and section 14 of the Dangerous Drugs Act, 1930, during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty the King, Emperor of India, the sum of rupees .

Dated this day of 19 .

(Signatures.)

SCHEDULE II.—[Amendments of Local Acts.] Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.

THE INDIAN SALE OF GOODS ACT, 1930.

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MISCELLANEOUS

ACT NO. III OF 1930.[1]

[15th March, 1930.]

An Act to define and amend the law relating to the sale of goods.

WHEREAS it is expedient to define and amend the law relating to the sale of goods; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Indian Sa[illegible] 1930. [illegible]

(*2*) It extends to the whole of British India [illegible] tan and the Sonthal Parganas [illegible]

[1] For Statement of Objects and Reasons [illegible] Gazette of India, 1929, Pt. V, p. 163; [illegible] p. 1

(*Chapter I.—Preliminary.*)

(*3*) It shall come into force on the first day of July, 1930.

Definitions. **2.** In this Act, unless there is anything repugnant in the subject or context,—

(*1*) " buyer " means a person who buys or agrees to buy goods ;

(*2*) " delivery " means voluntary transfer of possession from one person to another ;

(*3*) goods are said to be in a " deliverable state " when they are in such state that the buyer would under the contract be bound to take delivery of them ;

(*4*) " document of title to goods " includes a bill of lading, dock-warrant, warehouse keeper's certificate, wharfingers' certificate, railway receipt, warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented ;

(*5*) " fault " means wrongful act or default ;

(*6*) " future goods " means goods to be manufactured or produced or acquired by the seller after the making of the contract of sale ;

(*7*) " goods " means every kind of moveable property other than actionable claims and money ; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale ;

(*8*) a person is said to be " insolvent " who has ceased to pay his debts in the ordinary course of business, or cannot pay his debts as they become due, whether he has committed an act of insolvency or not ;

(*9*) " mercantile agent " means a mercantile agent having in the customary course of business as such agent authority either to sell goods, or to consign goods for the purposes of sale, or to buy goods, or to raise money on the security of goods ;

(*10*) " price " means the money consideration for a sale of goods ;

(*11*) " property " means the general property in goods, and not merely a special property ;

(*12*) " quality of goods " includes their state or condition ;

(*13*) " seller " means a person who sells or agrees to sell goods ;

(*14*) " specific goods " means goods identified and agreed upon at the time a contract of sale is made ; and

(*15*) expressions used but not defined in this Act and defined in the Indian Contract Act, 1872, have the meanings assigned to them in that Act. IX of 187[2]

of 1872. 3. The unrepealed provisions of the Indian Contract Act, 1872, save in so far as they are inconsistent with the express provisions of this Act, shall continue to apply to contracts for the sale of goods

Application of provisions of Act IX of 1872.

CHAPTER II

FORMATION OF THE CONTRACT

Contract of Sale

Sale and agreement to sell

4. (*1*) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price There may be a contract of sale between one part owner and another

(*2*) A contract of sale may be absolute or conditional

(*3*) Where under a contract of sale the property in the goods is transferred from the seller to the buyer, the contract is called a sale, but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell

(*4*) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred

Formalities of the Contract

Contract of sale how made

5. (*1*) A contract of sale is made by an offer to buy or sell goods for a price and the acceptance of such offer The contract may provide for the immediate delivery of the goods or immediate payment of the price or both, or for the delivery or payment by instalments, or that the delivery or payment or both shall be postponed

(*2*) Subject to the provisions of any law for the time being in force, a contract of sale may be made in writing or by word of mouth, or partly in writing and partly by word of mouth or may be implied from the conduct of the parties

Subject matter of Contract.

Existing or future goods

6. (*1*) The goods which form the subject of a contract of sale may be either existing goods, owned or possessed by the seller, or future goods

(*2*) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency which may or may not happen

(*3*) Where by a contract of sale the seller purports to effect a present sale of future goods, the contract operates as an agreement to sell the goods

[illegible]

7. Where there is a contract for the sale of specific goods, the contract is void if the goods without the knowledge of the seller have, at the time when

making of contract.

the contract was made, perished or become so damaged as no longer to answer to their description in the contract.

Goods perishing before sale but after agreement to sell.

8. Where there is an agreement to sell specific goods, and subsequently the goods without any fault on the part of the seller or buyer perish or become so damaged as no longer to answer to their description in the agreement before the risk passes to the buyer, the agreement is thereby avoided.

The Price.

Ascertainment of price.

9. (*1*) The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner thereby agreed or may be determined by the course of dealing between the parties.

(*2*) Where the price is not determined in accordance with the foregoing provisions, the buyer shall pay the seller a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case.

Agreement to sell at valuation.

10. (*1*) Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and such third party cannot or does not make such valuation, the agreement is thereby avoided:

Provided that, if the goods or any part thereof have been delivered to, and appropriated by, the buyer, he shall pay a reasonable price therefor.

(*2*) Where such third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain a suit for damages against the party in fault.

Conditions and Warranties.

Stipulations as to time.

11. Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not deemed to be of the essence of a contract of sale. Whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract.

Condition and warranty.

12. (*1*) A stipulation in a contract of sale with reference to goods which are the subject thereof may be a condition or a warranty.

(*2*) A condition is a stipulation essential to the main purpose of the contract, the breach of which gives rise to a right to treat the contract as repudiated.

(*3*) A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.

(*4*) Whether a stipulation in a contract of sale is a condition or a warranty depends in each case on the construction of the contract. A stipulation may be a condition, though called a warranty in the contract.

n condition to be reated as warranty.

13. (*1*) Where a contract of sale is subject to any condition to be fulfilled by the seller, the buyer may waive the condition or elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated.

(*2*) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof, or where the contract is for specific goods the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated, unless there is a term of the contract, express or implied, to that effect.

(*3*) Nothing in this section shall affect the case of any condition or warranty fulfilment of which is excused by law by reason of impossibility or otherwise.

14. In a contract of sale, unless the circumstances of the contract are such as to show a different intention there is— **Implied undertaking as to title, etc.**

(*a*) an implied condition on the part of the seller that, in the case of a sale, he has a right to sell the goods and that, in the case of an agreement to sell, he will have a right to sell the goods at the time when the property is to pass ;

(*b*) an implied warranty that the buyer shall have and enjoy quiet possession of the goods ;

(*c*) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made.

15. Where there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description ; and, if the sale is by sample as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description. **Sale by description.**

16. Subject to the provisions of this Act and of any other law for the time being in force, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale, except as follows :— **Implied conditions as to quality or fitness.**

(*1*) Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, so as to show that the buyer relies on the seller's skill or judgment, and the goods are of a description which it is in the course of the seller's business to supply (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be reasonably fit for such purpose :

Provided that, in the case of a contract for the sale of a specified article under its patent or other trade name, there is no implied condition as to its fitness for any particular purpose.

(*2*) Where goods are bought by description from a seller who deals in goods of that description (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be of merchantable quality :

Provided that, if the buyer has examined the goods, there shall be no implied condition as regards defects which such examination ought to have revealed.

(*3*) An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.

(*4*) An express warranty or condition does not negative a warranty or condition implied by this Act unless inconsistent therewith.

Sale by sample.

17. (*1*) A contract of sale is a contract for sale by sample where there is a term in the contract, express or implied, to that effect.

(*2*) In the case of a contract for sale by sample there is an implied condition—

(*a*) that the bulk shall correspond with the sample in quality;

(*b*) that the buyer shall have a reasonable opportunity of comparing the bulk with the sample;

(*c*) that the goods shall be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.

CHAPTER III.

Effects of the Contract.

Transfer of property as between seller and buyer.

Goods must be ascertained.

18. Where there is a contract for the sale of unascertained goods, no property in the goods is transferred to the buyer unless and until the goods are ascertained.

Property passes when intended to pass.

19. (*1*) Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

(*2*) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case.

(*3*) Unless a different intention appears, the rules contained in sections 20 to 24 are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer.

Specific goods in a deliverable state.

20. Where there is an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment of the price or the time of delivery of the goods, or both, is postponed.

Specific goods to be put into a deliverable state.

21. Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing is done and the buyer has notice thereof.

(*Chapter III —Effects of the Contract*)

Specific goods in a deliverable state, when the seller has to do anything thereto in order to ascertain price.

22. Where there is a contract for the sale of specific goods in a deliverable state, but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof

Sale of unascertained goods and appropriation.

23. (*1*) Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract either by the seller with the assent of the buyer or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer Such assent may be express *or implied, and may be given either before or after the appropriation is made*

Delivery to carrier

(*2*) Where, in pursuance of the contract, the seller delivers the goods to the buyer or to a carrier or other bailee (whether named by the buyer or not) for the purpose of transmission to the buyer, and does not reserve the right of disposal, he is deemed to have unconditionally appropriated the goods to the contract

Goods sent on approval or "on sale or return"

24. When goods are delivered to the buyer on approval or "on sale or return" or other similar terms, the property therein passes to the buyer—

(*a*) when he signifies his approval or acceptance to the seller or does any other act adopting the transaction,

(*b*) if he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection, then, if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time

Reservation of right of disposal.

25. (*1*) Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of disposal of the goods until certain conditions are fulfilled In such case, notwithstanding the delivery of the goods to a buyer, or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled

(*2*) Where goods are shipped and by the bill of lading the goods are deliverable to the order of the seller or his agent, the seller is *prima facie* deemed to reserve the right of disposal

(*3*) Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading to the buyer together, to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange and if he wrongfully retains the bill of lading the property in the goods does not pass to him.

(*Chapter III.—Effects of the Contract.*)

Risk *primâ facie* passes with property.

26. Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer, the goods are at the buyer's risk whether delivery has been made or not:

Provided that, where delivery has been delayed through the fault of either buyer or seller, the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault:

Provided also that nothing in this section shall affect the duties or liabilities of either seller or buyer as a bailee of the goods of the other party.

Transfer of title.

Sale by person not the owner.

27. Subject to the provisions of this Act and of any other law for the time being in force, where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell:

Provided that, where a mercantile agent is, with the consent of the owner, in possession of the goods or of a document of title to the goods, any sale made by him, when acting in the ordinary course of business of a mercantile agent, shall be as valid as if he were expressly authorised by the owner of the goods to make the same; provided that the buyer acts in good faith and has not at the time of the contract of sale notice that the seller has not authority to sell.

Sale by one of joint owners.

28. If one of several joint owners of goods has the sole possession of them by permission of the co-owners, the property in the goods is transferred to any person who buys them of such joint owner in good faith and has not at the time of the contract of sale notice that the seller has not authority to sell.

Sale by person in possession under voidable contract.

29. When the seller of goods has obtained possession thereof under a contract voidable under section 19 or section 19A of the Indian Contract Act, 1872, but the contract has not been rescinded at the time of the sale, the buyer acquires a good title to the goods, provided he buys them in good faith and without notice of the seller's defect of title. IX of 1

Seller or buyer in possession after sale.

30. (*1*) Where a person, having sold goods, continues or is in possession of the goods or of the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale shall have the same effect as if the person making the delivery or transfer were expressly authorised by the owner of the goods to make the same.

(*2*) Where a person, having bought or agreed to buy goods, obtains, with the consent of the seller, possession of the goods or the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and

without notice of any lien or other right of the original seller in respect of the goods shall have effect as if such lien or right did not exist.

CHAPTER IV.

PERFORMANCE OF THE CONTRACT

31. It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them, in accordance with the terms of the contract of sale. Duties of seller and buyer.

32. Unless otherwise agreed, delivery of the goods and payment of the price are concurrent conditions, that is to say, the seller shall be ready and willing to give possession of the goods to the buyer in exchange for the price, and the buyer shall be ready and willing to pay the price in exchange for possession of the goods. Payment and delivery are concurrent conditions.

33. Delivery of goods sold may be made by doing anything which the parties agree shall be treated as delivery or which has the effect of putting the goods in the possession of the buyer or of any person authorised to hold them on his behalf. Delivery.

34. A delivery of part of goods, in progress of the delivery of the whole, has the same effect, for the purpose of passing the property in such goods, as a delivery of the whole; but a delivery of part of the goods, with an intention of severing it from the whole, does not operate as a delivery of the remainder. Effect of part delivery.

35. Apart from any express contract, the seller of goods is not bound to deliver them until the buyer applies for delivery. Buyer to apply for delivery.

36. (*1*) Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract, express or implied, between the parties. Apart from any such contract, goods sold are to be delivered at the place at which they are at the time of the sale, and goods agreed to be sold are to be delivered at the place at which they are at the time of the agreement to sell, or if not then in existence, at the place at which they are manufactured or produced. Rules as to delivery.

(*2*) Where under the contract of sale the seller is bound to send the goods to the buyer, but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

(*3*) Where the goods at the time of sale are in the possession of a third person, there is no delivery by seller to buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf:

Provided that nothing in this section shall affect the operation of the issue or transfer of any document of title to goods.

(*4*) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour. What is a reasonable hour is a question of fact.

(*Chapter IV.—Performance of the Contract.*)

(*5*) Unless otherwise agreed, the expenses of and incidental to putting the goods into a deliverable state shall be borne by the seller.

Delivery of wrong quantity.

37. (*1*) Where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them, but if the buyer accepts the goods so delivered he shall pay for them at the contract rate.

(*2*) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell, the buyer may accept the goods included in the contract and reject the rest, or he may reject the whole. If the buyer accepts the whole of the goods so delivered, he shall pay for them at the contract rate.

(*3*) Where the seller delivers to the buyer the goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods which are in accordance with the contract and reject the rest, or may reject the whole.

(*4*) The provisions of this section are subject to any usage of trade, special agreement or course of dealing between the parties.

Instalment deliveries.

38. (*1*) Unless otherwise agreed, the buyer of goods is not bound to accept delivery thereof by instalments.

(*2*) Where there is a contract for the sale of goods to be delivered by stated instalments which are to be separately paid for, and the seller makes no delivery or defective delivery in respect of one or more instalments, or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case, whether the breach of contract is a repudiation of the whole contract, or whether it is a severable breach giving rise to a claim for compensation, but not to a right to treat the whole contract as repudiated.

Delivery to carrier or wharfinger.

39. (*1*) Where, in pursuance of a contract of sale, the seller is authorised or required to send the goods to the buyer, delivery of the goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer, or delivery of the goods to a wharfinger for safe custody, is *primâ facie* deemed to be a delivery of the goods to the buyer.

(*2*) Unless otherwise authorised by the buyer, the seller shall make such contract with the carrier or wharfinger on behalf of the buyer as may be reasonable having regard to the nature of the goods and the other circumstances of the case. If the seller omits so to do, and the goods are lost or damaged in course of transit or whilst in the custody of the wharfinger, the buyer may decline to treat the delivery to the carrier or wharfinger as a delivery to himself, or may hold the seller responsible in damages.

(*3*) Unless otherwise agreed, where goods are sent by the seller to the buyer by a route involving sea transit, in circumstances in which it is usual to insure, the seller shall give such notice to the buyer as may enable him to insure them during their sea transit, and if the seller fails so to do, the goods shall be deemed to be at his risk during such sea transit.

40. Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold, the buyer shall, nevertheless, unless otherwise agreed, take any risk of deterioration in the goods necessarily incident to the course of transit. Risk where goods are delivered at distant place.

41. (*1*) Where goods are delivered to the buyer which he has not previously examined, he is not deemed to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract. Buyer's right of examining the goods.

(*2*) Unless otherwise agreed, when the seller tenders delivery of goods to the buyer, he is bound, on request, to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract.

42. The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them, or when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller, or when, after the lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them. Acceptance.

43. Unless otherwise agreed, where goods are delivered to the buyer and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he intimates to the seller that he refuses to accept them. Buyer not bound to return rejected goods.

44. When the seller is ready and willing to deliver the goods and requests the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery, and also for a reasonable charge for the care and custody of the goods: Liability of buyer for neglecting or refusing delivery of goods.

Provided that nothing in this section shall affect the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract.

CHAPTER V.

RIGHTS OF UNPAID SELLER AGAINST THE GOODS.

45. (*1*) The seller of goods is deemed to be an "unpaid seller" within the meaning of this Act— "Unpaid seller" defined.

(*a*) when the whole of the price has not been paid or tendered;

(*b*) when a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

(*2*) In this Chapter, the term "seller" includes any person who is in the position of a seller, as, for instance, an agent of the seller to whom the bill of

lading has been indorsed, or a consignor or agent who has himself paid, or is directly responsible for, the price.

Unpaid seller's rights.

46. (*1*) Subject to the provisions of this Act and of any law for the time-being in force, notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of goods, as such, has by implication of law—

(*a*) a lien on the goods for the price while he is in possession of them ;

(*b*) in case of the insolvency of the buyer a right of stopping the goods in transit after he has parted with the possession of them ;

(*c*) a right of re-sale as limited by this Act.

(*2*) Where the property in goods has not passed to the buyer, the unpaid seller has, in addition to his other remedies, a right of withholding delivery similar to and co-extensive with his rights of lien and stoppage in transit where the property has passed to the buyer.

Unpaid seller's lien.

Seller's lien.

47. (*1*) Subject to the provisions of this Act, the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price in the following cases, namely :—

(*a*) where the goods have been sold without any stipulation as to credit ;

(*b*) where the goods have been sold on credit, but the term of credit has expired ;

(*c*) where the buyer becomes insolvent.

(*2*) The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer.

Part delivery.

48. Where an unpaid seller has made part delivery of the goods, he may exercise his right of lien on the remainder, unless such part delivery has been made under such circumstances as to show an agreement to waive the lien.

Termination of lien.

49. (*1*) The unpaid seller of goods loses his lien thereon—

(*a*) when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods ;

(*b*) when the buyer or his agent lawfully obtains possession of the goods ;

(*c*) by waiver thereof.

(*2*) The unpaid seller of goods, having a lien thereon, does not lose his lien by reason only that he has obtained a decree for the price of the goods.

Stoppage in transit.

Right of stoppage in transit.

50. Subject to the provisions of this Act, when the buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods

has the right of stopping them in transit, that is to say, he may resume possession of the goods as long as they are in the course of transit, and may retain them until payment or tender of the price

51. (*1*) Goods are deemed to be in course of transit from the time when they are delivered to a carrier or other bailee for the purpose of transmission to the buyer, until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee

Duration of transit.

(*2*) If the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination, the transit is at an end

(*3*) If, after the arrival of the goods at the appointed destination, the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent, the transit is at an end and it is immaterial that a further destination for the goods may have been indicated by the buyer

(*4*) If the goods are rejected by the buyer and the carrier or other bailee continues in possession of them, the transit is not deemed to be at an end, even if the seller has refused to receive them back

(*5*) When goods are delivered to a ship chartered by the buyer, it is a question depending on the circumstances of the particular case, whether they are in the possession of the master as a carrier or as agent of the buyer

(*6*) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf, the transit is deemed to be at an end

(*7*) Where part delivery of the goods has been made to the buyer or his agent in that behalf, the remainder of the goods may be stopped in transit, unless such part delivery has been given in such circumstances as to show an agreement to give up possession of the whole of the goods

52. (*1*) The unpaid seller may exercise his right of stoppage in transit either by taking actual possession of the goods or by giving notice of his claim to the carrier or other bailee in whose possession the goods are Such notice may be given either to the person in actual possession of the goods or to his principal In the latter case the notice, to be effectual, shall be given at such time and in such circumstances that the principal, by the exercise of reasonable diligence, may communicate it to his servant or agent in time to prevent a delivery to the buyer

How stoppage in transit is effected

(*2*) When notice of stoppage in transit is given by the seller to the carrier or other bailee in possession of the goods, he shall re-deliver the goods to, or according to the directions of, the seller The expenses of such re delivery shall be borne by the seller.

Transfer by buyer and seller.

53. (*1*) Subject to the provisions of this Act, the unpaid seller's right of lien or stoppage in transit is not affected by any sale or other disposition of the goods which the buyer may have made, unless the seller has assented thereto:

Effect of sub-sale or pledge by buyer

Provided that where a document of title to goods has been issued or lawfully transferred to any person as buyer or owner of the goods, and that person transfers the document to a person who takes the document in good faith and for consideration, then, if such last mentioned transfer was by way of sale, the unpaid seller's right of lien or stoppage in transit is defeated, and, if such last mentioned transfer was by way of pledge or other disposition for value, the unpaid seller's right of lien or stoppage in transit can only be exercised subject to the rights of the transferee.

(*2*) Where the transfer is by way of pledge, the unpaid seller may require the pledgee to have the amount secured by the pledge satisfied in the first instance, as far as possible, out of any other goods or securities of the buyer in the hands of the pledgee and available against the buyer.

Sale not generally rescinded by lien or stoppage in transit.

54. (*1*) Subject to the provisions of this section, a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or stoppage in transit.

(*2*) Where the goods are of a perishable nature, or where the unpaid seller who has exercised his right of lien or stoppage in transit gives notice to the buyer of his intention to re-sell, the unpaid seller may, if the buyer does not within a reasonable time pay or tender the price, re-sell the goods within a reasonable time and recover from the original buyer damages for any loss occasioned by his breach of contract, but the buyer shall not be entitled to any profit which may occur on the re-sale. If such notice is not given, the unpaid seller shall not be entitled to recover such damages and the buyer shall be entitled to the profit, if any, on the re-sale.

(*3*) Where an unpaid seller who has exercised his right of lien or stoppage in transit re-sells the goods, the buyer acquires a good title thereto as against the original buyer, notwithstanding that no notice of the re-sale has been given to the original buyer.

(*4*) Where the seller expressly reserves a right of re-sale in case the buyer should make default, and, on the buyer making default, re-sells the goods, the original contract of sale is thereby rescinded, but without prejudice to any claim which the seller may have for damages.

CHAPTER VI.

Suits for breach of the Contract.

Suit for price.

55. (*1*) Where under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may sue him for the price of the goods.

(*2*) Where under a contract of sale the price is payable on a day certain irrespective of delivery and the buyer wrongfully neglects or refuses to pay

such price, the seller may sue him for the price although the property in the goods has not passed and the goods have not been appropriated to the contract.

56. Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may sue him for damages for non-acceptance. Damages for non acceptance.

57. Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may sue the seller for damages for non-delivery. Damages for non-delivery.

877. 58. [illegible] II of the Specific Relief Act, 1877, [illegible] the Court may, if it thinks fit, on the application [illegible] direct that th[illegible] performed specifically, without giving the defendant th[illegible] The [illegible] tion of the plaintiff may be made at any time before [illegible] Specific performance.

59. (1) Where there is a breach of warranty by the seller, or where the buyer elects or is compelled to treat any breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason only of such breach of warranty entitled to reject the goods : but he may— Remedy for breach of warranty.

(a) set up against the seller the breach of warranty in diminution or extinction of the price ; or

(b) sue the seller for damages for breach of warranty.

(2) The fact that a buyer has set up a breach of warranty in diminution or extinction of the price does not prevent him from suing for the same breach of warranty if he has suffered further damage.

60. Where either party to a contract of sale repudiates the contract before the date of delivery, the other may either treat the contract as subsisting and wait till the date of delivery, or he may treat the contract as rescinded and sue for damages for the breach. Repudiation of contract before due date.

61. (1) Nothing in this Act shall affect the right of the seller or the buyer to recover interest or special damages in any case where by law interest or special damages may be recoverable, or to recover the money paid where the consideration for the payment of it has failed. Interest by way of damages and special damages.

(2) In the absence of a contract to the contrary, the Court may award interest at such rate as it thinks fit on the amount of the price—

(a) to the seller in a suit by him for the amount of the price—from the date of the tender of the goods or from the date on which the price was payable ;

(b) to the buyer in a suit by him for the refund of the price in a case of a breach of the contract on the part of the seller—from the date on which the payment was made.

CHAPTER VII.

MISCELLANEOUS.

Exclusion of implied terms and conditions.

62. Where any right, duty or liability would arise under a contract of sale by implication of law, it may be negatived or varied by express agreement or by the course of dealing between the parties, or by usage, if the usage is such as to bind both parties to the contract.

Reasonable time a question of fact.

63. Where in this Act any reference is made to a reasonable time, the question what is a reasonable time is a question of fact.

Auction sale.

64. In the case of a sale by auction—

(*1*) where goods are put up for sale in lots, each lot is *primâ facie* deemed to be the subject of a separate contract of sale;

(*2*) the sale is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner; and, until such announcement is made, any bidder may retract his bid;

(*3*) a right to bid may be reserved expressly by or on behalf of the seller and, where such right is expressly so reserved, but not otherwise, the seller or any one person on his behalf may, subject to the provisions hereinafter contained, bid at the auction;

(*4*) where the sale is not notified to be subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person; and any sale contravening this rule may be treated as fraudulent by the buyer;

(*5*) the sale may be notified to be subject to a reserved or upset price;

(*6*) if the seller makes use of pretended bidding to raise the price, the sale is voidable at the option of the buyer.

65. [*Repeal.*] *Rep. by the Repealing Act, 1938* (*I of 1938*), *s. 2 and Sch.*

Savings.

66. (*1*) Nothing in this Act or in any repeal effected thereby shall affect or be deemed to affect—

(*a*) any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or

(*b*) any legal proceedings or remedy in respect of any such right, title, interest, obligation or liability, or

(*c*) anything done or suffered before the commencement of this Act, or

(*d*) any enactment relating to the sale of goods which is not expressly repealed by this Act, or

(*e*) any rule of law not inconsistent with this Act.

(*2*) The rules of insolvency relating to contracts for the sale of goods shall continue to apply thereto, notwithstanding anything contained in this Act.

(3) The provisions of this Act relating to contracts of sale do not apply to any transaction in the form of a contract of sale which is intended to operate by way of mortgage, pledge, charge or other security

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THE INDIAN FINANCE ACT, 1930.

ACT No. XV OF 1930

[*28th March, 1930.*]

[*Not printed*.][1]

THE SILVER (EXCISE DUTY) ACT, 1930.

ACT No. XVIII OF 1930.[2]

[*4th April, 1930.*]

An Act to provide for the imposition and collection of an excise duty on silver.

WHEREAS it is expedient to impose an excise duty on silver and to provide for the collection thereof, It is hereby enacted as follows —

1. (*1*) This Act may be called the Silver (Excise Duty) Act, 1930 — *Short title and extent.*

(*2*) It extends to the whole of British India

2. In this Act "silver works" means any place where silver is extracted from ore — *Definition.*

3. (*1*) There shall be collected at every silver works on all silver produced in such works, which is issued out of the premises of such works on and after the 17th day of March, 1930, a duty at the rate of [3][three annas] on each ounce — *Imposition and collection of an excise duty on silver.*

(*2*) If any duty payable under sub section (*1*) is not paid within the time fixed by a notice issued in accordance with any rules made in this behalf under this Act, it shall be deemed to be an arrear, and the authority to which

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[1] Ss 4 and 4A of this Act were rep by the Indian Tariff Act, 1934 (32 of 1934), s. 13 and Sch III, and certain words in the long title and preamble, and ss 2, 3 5, 7 8 and 9 were rep. by the Repealing and Amending Act, 1937 (20 of 1937), s. 3 and Sch II The remaining substantive section 6 relating to income tax and super tax for the year beginning on 1st April, 1930 being practically spent, the Act is not printed.

[2] For Statement of Objects and Reasons, see Gazette of India, 1930, Pt V, p 95

[3] The rate was originally fixed by the Act at four annas. It was changed to six annas by the Indian Finance Act, 1931, to five annas by the Indian Finance Act, 1934 (9 of 1934), to two annas by the Indian Finance Act, 1935, and finally to three annas by the Indian Finance Act, 1937.

CHAPTER VII.

MISCELLANEOUS.

Exclusion of implied terms and conditions.

62. Where any *right*, duty or liability would arise under a contract of sale by implication of law, it may be negatived or varied by express agreement or by the course of dealing between the parties, or by usage, if the usage is such as to bind both parties to the contract.

Reasonable time a question of fact.

63. Where *in this Act* any reference is made to a reasonable time, the question what is a reasonable time is a question of fact.

Auction sale.

64. In the case of a sale by auction—

(*1*) where goods are put up for sale in lots, each lot is *primâ facie* deemed to be the subject of a separate contract of sale;

(*2*) the sale is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner; and, until such announcement is made, any bidder may retract his bid;

(*3*) a right to bid may be reserved expressly by or on behalf of the seller and, where such right is expressly so reserved, but not otherwise, the seller or any one person on his behalf may, subject to the provisions hereinafter contained, bid at the auction;

(*4*) where the sale is not notified to be subject to a right to bid on behalf of the seller, it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller or any such person; and any sale contravening this rule may be treated as fraudulent by the buyer;

(*5*) the sale may be notified to be subject to a reserved or upset price;

(*6*) if the seller makes use of pretended bidding to raise the price, the sale is voidable at the option of the buyer.

65. [*Repeal.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

Savings.

66. (*1*) Nothing in this Act or in any repeal effected thereby shall affect *or be deemed to affect*—

(*a*) any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or

(*b*) any legal proceedings or remedy in respect of any such right, title, interest, obligation or liability, or

(*c*) anything done or suffered before the commencement of this Act, or

(*d*) any enactment relating to the sale of goods which is not expressly repealed by this Act, or

(*e*) any rule of law not inconsistent with this Act.

(*2*) The rules of insolvency relating to contracts for the sale of goods shall continue to apply thereto, notwithstanding anything contained in this Act.

(3) The provisions of this Act relating to contracts of sale do not apply to any transaction in the form of a contract of sale which is intended to operate by way of mortgage, pledge, charge or other security.

THE INDIAN FINANCE ACT, 1930.

ACT No. XV OF 1930.

[28th March, 1930.]

[*Not printed.*][1]

THE SILVER (EXCISE DUTY) ACT, 1930.

ACT No. XVIII OF 1930.[2]

[4th April, 1930.]

An Act to provide for the imposition and collection of an excise duty on silver.

WHEREAS it is expedient to impose an excise duty on silver and to provide for the collection thereof; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Silver (Excise Duty) Act, 1930. Short title and extent.

(2) It extends to the whole of British India.

2. In this Act "silver works" means any place where silver is extracted from ore. Definition.

3. (*1*) There shall be collected at every silver works on all silver produced in such works, which is issued out of the premises of such works on and after the 17th day of March, 1930, a duty at the rate of [3][three annas] on each ounce. Imposition and collection of an excise duty on silver.

(2) If any duty payable under sub-section (*1*) is not paid within the time fixed by a notice issued in accordance with any rules made in this behalf under this Act, it shall be deemed to be an arrear, and the authority to which

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[1] Ss. 4 and 4A of this Act were rep. by the Indian Tariff Act, 1934 (32 of 1934), s. 13 and Sch. III, and certain words in the long title and preamble, and ss. 2, 3, 5, 7, 8 and 9 were rep. by the Repealing and Amending Act, 1937 (20 of 1937), s. 3 and Sch. II. The remaining [illegible] relating to income tax and super tax for the year beginning on 1st April, [illegible]

[illegible] tax annas by [illegible] 1934 [illegible]

[illegible] annas by the Indian Finance Act, [illegible] 1937.

such duty is payable may, in lieu thereof, recover any sum not exceeding double the amount of the duty unpaid which such authority may in its discretion think it reasonable to require.

(*3*) Any arrear of duty, or any sum recoverable in lieu thereof under sub-section (*2*), shall be recoverable as an arrear of income-tax in any manner prescribed in section 46 of the Indian Income-tax Act, 1922. XI of 1[illegible]

Issue of silver from silver works.

4. (*1*) No person shall issue any silver out of the premises of any silver works except in accordance with the provisions of rules made under section 6 regulating such issue, or, until such rules are made, in accordance with the general or special orders of the [1][Central Government].

(*2*) Whoever contravenes any such rule or order shall be punishable with fine which may extend to one thousand rupees or to a sum double the amount of the duty on any silver issued in contravention of such rule or order, whichever is greater.

Application of the provisions of Act VIII of 1878 to the excise duty on silver.

5. The [2][Central Government] may, by notification[3] in the [4][Official Gazette], declare that any of the provisions of the Sea Customs Act, 1878, relating to the levy of and exemption from customs duties, drawback of duty, warehousing, offences and penalties, confiscation, and the procedure relating to offences and appeals shall, with such modifications and alterations as [5][it] may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty on silver imposed by section 3. VIII of

Power to make rules.

6. (*1*) The [2][Central Government] may, by notification[3] in the [4][Official Gazette], make rules—

(*a*) imposing on owners of silver works the duty of furnishing returns and keeping records and books, prescribing the form of such returns, records and books and the particulars to be contained therein, and the manner in which the same are to be verified, and all such other conditions thereof as may be necessary;

(*b*) providing for the regulation of the issue of silver out of the premises of silver works;

(*c*) providing for the assessment of the duty, the issue of notices requiring payment, the authority to whom the duty shall be payable and for the recovery of arrears;

(*d*) providing for the inspection of silver works; and

(*e*) generally, for carrying into effect the provisions of this Act.

(*2*) Such rules may provide that any breach thereof shall be punishable with fine which may extend to five hundred rupees:

Provided that the breach of any rule made under clause (*b*) of sub-section (*1*) shall be punishable with the penalty prescribed in sub-section (*2*) of section 4.

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1 Subs. by the A. O. for "L. G."
2 Subs. by the A. O. for "G. G. in C."
3 For notifications under ss. 5 and 6, *see Gazette of India*, 1930, Pt. I, p. 317.
4 Subs. by the A. O. for "Gazette of India".
5 Subs. by the A. O. for "he".

THE INDIAN COMPANIES (AMENDMENT) ACT, 1930

ACT No XIX OF 1930 [1]

[*4th April, 1930*]

An Act further to amend the Indian Companies Act, 1913, for certain purposes

WHEREAS it is expedient further to amend the Indian Companies Act 1913, for the purposes hereinafter appearing, It is hereby enacted as follows —

Short title and commencement

1. (*1*) This Act may be called the Indian Companies (Amendment) Act, 1930

(2) It shall come into force on such date[2] as the [3][Central Government] may, by notification in the [4][Official Gazette] appoint

2. [*Amendment of s 144, Act VII of 1913*] *Rep by the Repealing Act, 1938 (I of 1938), s 2 and Sch*

Certificates granted before the commencement of this Act

3. (*1*) All certificates granted by [5][Provincial Governments] before the commencement of this Act entitling the holders, and all declarations made before the commencement of this Act by the [3][Central Government] entitling the members of any specified institution or association, to be appointed and to act as auditors of companies throughout British India shall be deemed to be cancelled on the expiry of one year from the commencement of this Act

Provided that the [3][Central Government] may direct that any such certificate or declaration shall remain in force for a further period not exceeding one year

Provided further that any person who—

(*a*) was entitled immediately before the commencement of this Act by reason of any such certificate or declaration to be appointed and to act as an auditor of companies throughout British India, and

(*b*) has at any time, after he became so entitled and before the commencement of this Act, resided in India,

shall, if he possesses such qualifications as to good character and on payment of such fee as may be prescribed under clause (*b*) of sub-section ([illegible]) of section 144 of the Indian Companies Act, 1913, be entitled to be enrolled on the Register of Accountants referred to in that sub-section.

(2) Persons holding restricted certificates granted by [5][Provincial Governments] before the commencement of this Act entitling them to act as auditors

[1] For Statement of Objects and Reasons, see Gazette of India, [illegible] Pt. V, p. [illegible]; for Report of Select Committee, see ibid., p. [illegible]

[2] This Act came into force on the 1st [illegible] 1932, see Gazette of India, [illegible], Pt. I, p. [illegible].

[3] Subs. by the A. O. for "G. G. in C."

[4] Subs. by the A. O. for "Gazette of India"

[5] Subs. by the A. O. for "Local Governments"

within a Province may continue so to act, on such conditions as may be prescribed by the [1][appropriate Government] in rules[2] made by notification in the [3][Official Gazette] and after previous publication.

[4][In this section "the appropriate Government" means, in relation to companies falling within Item 33 of List I in the Seventh Schedule to the Government of India Act, 1935, the Central Government, and in relation to other companies, the Provincial Government.] 26 Geo. 5, C. 2.

THE INDIAN LAC CESS ACT, 1930.

ACT NO. XXIV OF 1930.[5]

[25th July, 1930.]

An Act to provide for the creation of a fund for the improvement and development of the cultivation, manufacture and marketing of Indian [4][or Burman] lac.

WHEREAS it is expedient to provide for the creation of a fund to be expended by a Committee specially constituted in this behalf for the improvement and development of the cultivation, manufacture and marketing of Indian [4][or Burman] lac; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Lac Cess Act, 1930.

(*2*) It extends to the whole of British India [6] * * .

(*3*) It shall come into force on such date[7] as the [1][Central Government] may, by notification in the [3][Official Gazette], appoint.

Definitions.

2. In this Act—

(*a*) "Collector" means a Customs-collector as defined in clause (*c*) of section 3 of the Sea Customs Act, 1878;

(*b*) "Committee" means the Indian Lac Cess Committee constituted under section 4;

(*c*) "lac" includes any form of manufactured or unmanufactured lac other than refuse lac;

(*d*) "lac cess" means the customs duty imposed by section 3.

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[1] Subs. by the A. O. for "G. G. in C."

[2] For the Auditors Restricted Certificate Rules made by the G. G. in C. under this section, *see* Gazette of India, 1932, Pt. I, p. 299.

[3] Subs. by the A. O. for "Gazette of India".

[4] Ins. by the A. O.

[5] For Statement of Objects and Reasons, *see* Gazette of India, 1930, Pt. V, p. 62; for Report of Select Committee, *see ibid*, p. 99.

[6] The words "except Aden" rep. by the A. O.

[7] This Act came into force on the 1st August, 1931, *see* Gazette of India, 1931, Pt. I, p. 633.

Imposition of lac cess.

3. There shall be levied and collected on all lac and refuse lac produced in India and exported from any customs-port to any port beyond the limits of British India [1] * * * a cess at the rate of [2][seven annas] per maund in the case of lac, and [3][five annas] per maund in the case of refuse lac, or at such lower rate as the [4][Central Government] may, on the recommendation of the Committee by notification in the [5][Official Gazette], prescribe.

Constitution of the Indian Lac Cess Committee.

[6][4. (*1*) The [4][Central Government] shall constitute a Committee to receive and expend the proceeds of the cess.

(*2*) The Committee shall consist of a Governing Body and an Advisory Board, each having its own chairman who shall be nominated by the [4][Central Government].

(*3*) The President of the Committee shall be the person nominated by the [4][Central Government] to be chairman of the Governing Body.

(*4*) The Governing Body shall consist of the following members, namely :—

(*i*) the chairman appointed under sub-section (*2*);

(*ii*) three members representing the shellac manufacturing industry, to be nominated one by the Bengal Chamber of Commerce, one by the Calcutta Shellac Brokers Association and one by the Shellac Traders' Association, Mirzapur;

(*iii*) one member representing the shellac export trade, to be nominated by the Bengal Chamber of Commerce;

(*iv*) one member representing the lac brokers and shellac brokers in Calcutta, to be nominated by the Calcutta Shellac Brokers Association;

[7][(*v*) six members representing the cultivators of lac to be nominated by the Central Government, one for Bengal, one for the United Provinces, one for the Central Provinces and Berar, one for Assam and two for Bihar;]

(*vi*) one member representing indigenous shellac manufacturers to be nominated by the [4][Central Government]; and

(*vii*) two members of whom one at least shall represent the lac consuming industries in India, to [illegible] ;al

(*5*) [illegible]

[illegible] appointed under sub-section (*2*);

(*ii*) the Conservator of Forests, [8][Bihar], *ex-officio*;

(*iii*) the Forest Entomologist, Dehra Dun, *ex-officio*;

(*iv*) the Imperial Entomologist, *ex-officio*;

(*v*) the Director of Agriculture, [8][Bihar], *ex-officio*;

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[1] The words "or to Aden" rep. by the A. O.
[2] Subs. by the Indian Lac Cess (Amendment) Act, 1936 (9 of 1936), s. 2, for "four annas".
[3] Subs. by s. 2, *ibid*, for "two annas".
[4] Subs. by the A. O. for "G. G. in C."
[5] Subs. by the A. O. for "Gazette of India".
[6] Subs. by Act 9 of 1936, s. 3, for the original section.
[7] Subs. by the A. O. for the original clause.
[8] Subs. by the Indian Lac Cess (Amendment) Act, 1937 (5 of 1937), s. 2, for "Bihar and Orissa".

(*vi*) the Director of the Lac Research Institute, Nankum, *ex-officio*;

(*vii*) one forest officer, to be nominated by the [1][Central Government];

(*viii*) two scientists, to be nominated by the [1][Central Government]; and

(*ix*) two experts, one representing the lac manufacturing industry and one representing the lac consuming industry, to be nominated by the [1][Central Government]:

Provided that the experts referred to in clause (*ix*) may be persons nominated as members of the Governing Body under clause (*ii*), (*vi*) or (*vii*) of subsection (*4*), and shall in that case be entitled to exercise the functions proper to them as members of the Governing Body or the Advisory Board, respectively.

(*6*) If within the period prescribed in this behalf, or, in the case of the first nominations under this section, within a reasonable time, any authority or body fails to make any nomination which it is entitled to make under this section, the [1][Central Government] may [2][itself] nominate a member to fill the vacancy.

(*7*) The Secretary of the Committee, who shall also be the Secretary of the Governing Body and of the Advisory Board, shall be a person not being a member of the Committee appointed by the[1] [Central Government].

(*8*) Where a nominated member dies, resigns, ceases to reside in British India or becomes incapable of acting, the [1][Central Government] may, of [3][its] own motion if the member to be replaced was nominated by [4][it], or in other cases on the recommendation of the authority or body entitled to make the original nomination, nominate a person to fill the vacancy:

Provided that where such authority or body fails to make a recommendation within the prescribed period, the [1][Central Government] may of [3][its] own motion nominate a person to fill the vacancy.

(*9*) No act done by the Committee shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Committee.]

Incorporation of the Committee.

5. The Committee so constituted shall be a body corporate by the name of the Indian Lac Cess Committee, having perpetual succession and a common seal, with power to acquire and hold property both moveable and immoveable and to contract, and shall by the said name sue and be sued.

Powers of Governing Body and Advisory Board.

[5][**5A.** (*1*) Subject to the provisions of sub-section (*2*) and sub-section (*3*), the Governing Body alone shall manage the affairs and administer the funds of the Committee, shall make all decisions and take all action required under this Act to be made or taken by the Committee, and shall discharge on behalf of the Committee all the functions of the Committee as a body corporate.

(*2*) The Governing Body and the Advisory Board together shall exercise the functions assigned to the Committee by section 9.

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[1] Subs. by the A. O. for "G. G. in C."
[2] Subs. by the A. O. for "himself".
[3] Subs. by the A. O. for "his".
[4] Subs. by the A. O. for "him".
[5] Ins. by the Indian Lac Cess (Amendment) Act, 1936 (9 of 1936), s. 4.

(3) All matters of a technical or scientific nature proposed for consideration by the Committee shall be referred to the Advisory Board, and the Advisory Board shall report thereon to the Governing Body.

(4) If a doubt arises whether any action taken by the Governing Body is or is not within its powers under sub-section (1), the matter shall be referred to the [1][Central Government] whose decision shall be final.]

6. (1) At the close of each month or as soon thereafter as may be convenient, the Collector shall pay the proceeds of the lac cess, after deducting the expenses of collection (if any), to the Committee. *Application of the lac cess.*

(2) The said proceeds and any other monies received by the Committee shall be applied to meeting the expenses of the Committee and the cost of such measures as it may, subject to the control of the [1][Central Government], decide to undertake for the improvement and development of methods of cultivation, manufacture and marketing of Indian [2][or Burman] lac.

[3][(3) Subject to the control of the [1][Central Government], the Committee may apply part of such proceeds and monies to meeting expenditure hitherto or hereafter incurred in securing patents for the protection of inventions by employees of the Committee.]

7. The [1][Central Government] may by notification in the [4][Official Gazette] declare that, with effect from such date as may be specified in the notification, the Committee shall be dissolved, and on the making of such declaration all funds and other property vested in the Committee shall vest in His Majesty [2][for the purposes of the Central Government] and this Act shall be deemed to have been repealed. *Dissolution of the Committee.*

8. (1) The [1][Central Government] may, after consulting the Committee and after previous publication, make rules[5] to carry out the purposes of this Act. *Power of Central Government to make rules.*

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the time within which nominations [6][or recommendations] shall be made under section 4;

(b) prescribe the term of office of the members of the Committee;

(c) prescribe the circumstances in which and the authority by which any member may be removed;

(d) provide for the holding of a minimum number of meetings of the Committee [7][or the Governing Body or the Advisory Board] during any year;

(e) provide for the maintenance by the Committee [7][or the Governing Body or the Advisory Board] of a record of all business transacted and the submission of copies of such records to the [1][Central Government];

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[1] Subs. by the A. O. for "G. G. in C."
[2] Ins. by the A. O.
[3] Ins. by the Indian Lac Cess (Amendment) Act, 1935 (9 of 1935), s. 2.
[4] Subs. by the A. O. for "Gazette of India".
[5] For rules made under this section, see Gazette of India, 1931, Pt. I, p. 631.
[6] Ins. by the Repealing and Amending Act, 1934 (35 of 1934), s. 2 and Sch. I.
[7] Ins. by Act 9 of 1935, s. 6.

(*f*) define the powers of the Committee and of the Director of the Lac Research Institute and of the Secretary to the Committee to enter into contracts which shall be binding on the Committee and the manner in which such contracts shall be executed ;

(*g*) regulate the travelling allowances of members of the Committee and their remuneration, if any ;

(*h*) define the powers of the Committee and of the Director of the Lac Research Institute and of the Secretary to the Committee in respect of the appointment, promotion and dismissal of officers and servants of the Committee and in respect of the creation and abolition of appointments of such officers or servants ;

(*i*) regulate the grant of pay and leave to officers and servants of the Committee, and the payment of leave allowances to such officers and servants, and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted ;

(*j*) regulate the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Committee ;

(*k*) provide for the establishment and maintenance of a provident fund for the officers and servants of the Committee, and for the deduction of subscriptions to such provident fund from the pay and allowances of such officers and servants, other than [1][servants of the Crown] whose services have been lent or transferred to the Committee ;

(*l*) regulate the preparation of budget estimates of the annual receipts and expenditure of the Committee and of supplementary estimates of expenditure not included in the budget estimates, and the manner in which such estimates shall be sanctioned and published ;

(*m*) define the powers of the Committee, the Standing Executive Sub-Committee (if any), the President of the Committee, the Director of the Lac Research Institute and the Secretary to the Committee, respectively, in regard to the expenditure of the funds of the Committee, whether provision has or has not been made in the budget estimates or by reappropriation for such expenditure, and in regard to the reappropriation of estimated savings in the budget estimates of expenditure ;

(*n*) regulate the maintenance of accounts of the receipts and expenditure of the Committee and provide for the audit and publication of such accounts ;

(*o*) prescribe the manner in which payments are to be made by or on behalf of the Committee, and the officers by whom orders for making deposits or investments or disposal of the funds of the Committee shall be signed ;

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[1] Subs. by the A. O. for " Govt. servants ".

(*f*) define the powers of the Committe
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(*g*) regulate the travelling allowances
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ances and travelling
Committee;
(*k*) provide for the estab
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3. Notwithstanding any custom, rule or interpretation of the Hindu Law, no gains of learning shall be held not to be the exclusive and separate property of the acquirer merely by reason of— Gains of learning not to be held not to be separate property of acquirer merely for certain reasons

(a) his learning having been, in whole or in part, imparted to him by any member, living or deceased, of his family, or with the aid of the joint funds of his family, or with the aid of the funds of any member thereof, or

(b) himself or his family having, while he was acquiring his learning, been maintained or supported, wholly or in part, by the joint funds of his family, or by the funds of any member thereof

4. This Act shall not be deemed in any way to affect— Savings

(a) the terms or incidents of any transfer of property made or effected before the commencement of this Act,

(b) the validity, invalidity, effect or consequences of anything already suffered or done before the commencement of this Act,

(c) any right or liability created under a partition, or an agreement for a partition of joint family property made before the commencement of this Act, or

(d) any remedy or proceeding in respect of such right or liability,

or to render invalid or in any way affect anything done before the commencement of this Act in any proceeding pending in a Court at such commencement, and any such remedy and any such proceeding as is herein referred to may be enforced, instituted or continued as the case may be, as if this Act had not been passed

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THE AJMER MERWARA COURT-FEES (AMENDMENT) ACT, 1930

ACT No XXXI OF 1930[1]

[25th July, 1930]

An Act further to amend the Court fees Act, 1870, in its application to Ajmer Merwara, for a certain purpose

VII of 1870 WHEREAS it is expedient further to amend the Court fees Act, 1870, in its application to Ajmer Merwara, for the purpose hereinafter appearing, It is hereby enacted as follows —

1 (1) This Act may be called the Ajmer Merwara Court-fees (Amendment) Act, 1930 Short .. and

(2) It shall apply to Ajmer Merwara only

[1] For Statement of Objects and Reasons see Gazette of India, 1929, Pt V, p 231, and for Report of Select Committee see ibid, 1930, Pt V, p 55

(*h*) the defining of the powers and duties of the Secretary of the Committee.

Publication of rules.

10. All rules made under section 8 or section 9 shall be published in the [1][Official Gazette].

11. [*Repeal.*] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

Dissolution of the Indian Lac Association for Research.

12. Notwithstanding anything contained in the Societies Registration Act, 1860, the Indian Lac Association for Research is hereby dissolved, and all monies and properties vested in it are hereby transferred to the Committee, subject to the payment of any outstanding claims incurred by the said Association under the Indian Lac Cess Act, 1921.

XXI of 1860.

XIV of 1921.

THE HINDU GAINS OF LEARNING ACT, 1930.

ACT NO. XXX OF 1930.[2]

[*25th July, 1930.*]

An Act to remove doubt as to the rights of a member of a Hindu undivided family in property acquired by him by means of his learning.

WHEREAS it is expedient to remove doubt, and to provide an uniform rule, as to the rights of a member of a Hindu undivided family in property acquired by him by means of his learning; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Hindu Gains of Learning Act, 1930.

(*2*) It extends to the whole of British India.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "acquirer" means a member of a Hindu undivided family, who acquires gains of learning;

(*b*) "gains of learning" means all acquisitions of property made substantially by means of learning, whether such acquisitions be made before or after the commencement of this Act and whether such acquisitions be the ordinary or the extraordinary result of such learning; and

(*c*) "learning" means education, whether elementary, technical, scientific, special or general, and training of every kind which is usually intended to enable a person to pursue any trade, industry, profession or avocation in life.

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[1] Subs. by the A. O. for "Gazette of India".

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1929, Pt. V, p. 228; for Report of Select Committee, *see ibid.*, 1930, Pt. V, p. 93.

This Act has been declared to be in force in the Sonthal Parganas by Notification under s. 3 (*3*) (*a*) of the Sonthal Parganas Settlement Regulation (3 of 1872), *see* B. & O. Gazette, 1931, Pt. II, p. 903.